

6/27/85

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99th CONGRESS
1st Session

S. -----

IN THE SENATE OF THE UNITED STATES

Mr. _____ introduced the following bill; which was read
twice and referred to the Committee on -----

A BILL

To amend title 5, United States Code, to establish a new
retirement and disability plan for Federal employees, postal
employees, and Members of Congress, and for other purposes.

1 Be it enacted by the Senate and House of Representatives
2 of the United States of America in Congress assembled,
3 That this Act may be cited as the "Civil Service Pension
4 Reform Act of 1985".

PURPOSES

5
6 Sec. 2. The purposes of this Act are--

7 (1) to provide Federal employees with a retirement
8 benefits plan which is comparable to good private sector
9 retirement benefits plans;

10 (2) to promote financial stability and flexibility
11 for the future of each Federal employee;

12 (3) to ensure a fully funded and financially sound

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1 Federal Government retirement benefits plan;

2 (4) to enhance portability of retirement assets
3 between Federal jobs and jobs outside the Federal
4 Government;

5 (5) to increase the options of each Federal employee
6 with respect to retirement benefits plans;

7 (6) to encourage Federal employees to increase
8 personal savings;

9 (7) to include Federal employees in the investment
10 decisionmaking process with respect to the assets of the
11 retirement system; and

12 (8) to extend financial protection from disability to
13 additional Federal employees and to increase such
14 protection for eligible Federal employees.

15 TITLE I--CIVIL SERVICE PENSION SYSTEM

16 ESTABLISHMENT

17 Sec. 101. (a) Title 5, United States Code, is amended by
18 inserting after chapter 83 the following new chapter:

19 ``CHAPTER 84--CIVIL SERVICE PENSION SYSTEM

``SUBCHAPTER I--DEFINITIONS; CIVIL SERVICE PENSION SYSTEM

``Sec.

``8401. Definitions.

``8402. Civil Service Pension System; participation.

``8403. Relationship to the Social Security Act.

``SUBCHAPTER II--BASIC PLAN

``8411. Entitlement.

``8412. Deferred retirement.

``8413. Computation of annuity.

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- ``8414. Reduction for early retirement.
- ``8415. Reduction for survivor annuities.
- ``8416. Methods of payments.
- ``8417. Level benefits option.
- ``8418. Funding.
- ``8419. Funding of annuity attributable to military service.

``SUBCHAPTER III--THRIFT SAVINGS PLAN

- ``8421. Contributions.
- ``8422. Vesting.
- ``8423. Entitlement and elections relating to entitlement.
- ``8424. Annuities: methods of payment; election; and computation.
- ``8425. Administrative provisions relating to payments and elections.
- ``8426. Thrift Savings Fund.
- ``8427. Investment of Thrift Savings Fund.
- ``8428. Accounting.

``SUBCHAPTER IV--SURVIVOR BENEFITS

- ``8431. Basic plan benefits relating to death of a participant.
- ``8432. Basic plan benefits relating to death of a former participant.
- ``8433. Survivor benefits under the thrift savings plan.
- ``8434. Survivor benefits for former spouses: entitlements; amount.
- ``8435. Survivor benefits for former spouses: elections, deposits and collections, and administrative provisions.
- ``8436. Termination of entitlement.

``SUBCHAPTER V--DISABILITY BENEFITS

- ``8441. Definitions.
- ``8442. Entitlement.
- ``8443. Computation of benefits.
- ``8444. Application.
- ``8445. Medical examinations.
- ``8446. Offers of alternative employment.
- ``8447. Recovery or restoration of earning capacity.
- ``8448. Relationship to workers' compensation.
- ``8449. Reserve components technicians.
- ``8450. Disability insurance and administration.
- ``8451. Reinsurance.
- ``8452. Annual accounting; special contingency reserve.
- ``8453. Employees' Disability Insurance Fund.

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``SUBCHAPTER VI--GENERAL AND ADMINISTRATIVE PROVISIONS

- ``8461. Authority of the Office of Personnel Management.
- ``8462. Cost-of-living adjustment in basic plan annuities, survivor annuities, and disability benefits.
- ``8463. Rate of benefits.
- ``8464. Accrual and termination of annuities.
- ``8465. Waiver, allotment, and assignment of benefits.
- ``8466. Application for benefits.
- ``8467. Court orders.
- ``8468. Annuities and pay on reemployment.

``SUBCHAPTER VII--TRANSITION PROVISIONS

- ``8471. Treatment of certain individuals subject to the Civil Service Retirement and Disability System.
- ``8472. Special rules for participants retaining entitlement in the Civil Service Retirement and Disability System.
- ``8473. Participants hired during temporary adjustment period.
- ``8474. Reemployed annuitants under the Civil Service Retirement and Disability System.
- ``8475. Exemption from certain offset provisions of the Social Security Act.
- ``8476. Regulations.

``SUBCHAPTER VIII--CIVIL SERVICE THRIFT INVESTMENT MANAGEMENT SYSTEM

- ``8491. Civil Service Thrift Investment Board.
- ``8492. Civil Service Thrift Investment Advisory Committee.
- ``8493. Executive Director.
- ``8494. Investment policy.
- ``8495. Administrative provisions.
- ``8496. Requirements relating to investment contracts.
- ``8497. Fiduciary responsibilities; liability and penalty.

2 ``SUBCHAPTER I--DEFINITIONS; CIVIL SERVICE PENSION SYSTEM

3 ``§ 8401. Definitions

4 ``Except as otherwise provided in this chapter, for the
5 purposes of this chapter--

6 ``(1) the term 'account', when used with respect to a
7 participant or annuitant, means an account established
8 and maintained under section 8428(a) of this title;

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1 “(2) the term ‘annuitant’ means a former participant
2 who is entitled to an annuity under this chapter and who
3 has applied under this chapter for the payment of the
4 annuity to begin;

5 “(3) the term ‘average pay’, when used with respect
6 to a participant, means the largest annual rate resulting
7 from averaging the participant’s rates of basic pay in
8 effect over any 5 consecutive years of creditable service
9 or, in the case of an annuity under this chapter based on
10 service of less than 5 years, over the total service,
11 with each rate weighted by the time it was in effect;

12 “(4) the term ‘basic pay’, when used with respect to
13 a participant--

14 “(A) means the lesser of--

15 “(1) the basic pay of the participant
16 established pursuant to law, without regard to
17 any provision of law limiting the rate of pay
18 actually payable in any pay period (including any
19 provision of law restricting the use of
20 appropriated funds); or

21 “(11) the rate of basic pay payable for
22 level I of the Executive Schedule; and

23 “(B) includes the items described in-
24 subparagraphs (A) through (D) of paragraph (3) of
25 section 8331 of this title and does not include the

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1 items excluded by such paragraph;

2 `` (5) the term 'Board' means the Civil Service Thrift
3 Investment Board established by section 8491(a) of this
4 title;

5 `` (6) the term 'Civil Service Retirement and
6 Disability Fund' means the Civil Service Retirement and
7 Disability Fund referred to in section 8348 of this
8 title;

9 `` (7) the term 'court', when used with respect to a
10 judgment, decree, order, or other judicial action, means
11 any court of the United States, a State, the District of
12 Columbia, the Commonwealth of Puerto Rico, or a territory
13 or possession of the United States, or any Indian court,
14 having jurisdiction to issue such judgment, decree, or
15 order or to take such other judicial action;

16 `` (8) the term 'Director' means the Director of the
17 Office of Personnel Management;

18 `` (9) the term 'dynamic assumptions' means economic
19 assumptions that are used in determining actuarial costs
20 and liabilities of a retirement system and anticipating
21 the effects of long-term future--

22 `` (A) investment yields,

23 `` (B) increases in rates of basic pay, and

24 `` (C) rates of inflation;

25 `` (10) the term 'earning', when used with respect to

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1 the Thrift Savings Fund, means the amount of the gain
2 realized or yield received from the investment of sums in
3 such fund;

4 "(11) the term 'eligible former spouse', when used
5 with respect to a participant or former participant,
6 means a former spouse of the participant or former
7 participant who was married to the participant or former
8 participant for at least 9 months;

9 "(12) the term 'employee' means--

10 "(A) each individual referred to in
11 subparagraphs (A), (E), (F), (H), (I), and (J) of
12 section 8331(1) of this title, including a law
13 enforcement officer of the United States Park Police
14 and a law enforcement officer of the United States
15 Secret Service; and

16 "(B) a Congressional employee as defined in
17 section 2107 of this title, including a temporary
18 Congressional employee;

19 any of whose service after December 31, 1983, is
20 employment for the purposes of title II of the Social
21 Security Act and chapter 21 of the Internal Revenue Code
22 of 1954, except that such term does not include any
23 individual referred to in clause (i), (ii), (v), (vi), or
24 (ix) of paragraph (1) of section 8331 of this title or in
25 the undesignated material after clause (ix) of such

*employee
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1 paragraph, any individual excluded under section
2 8402(b)(2) of this title, or any individual who was
3 subject to subchapter III of chapter 83 of this title on
4 December 31, 1983, and has not commenced participation in
5 the System pursuant to section 8471 of this title;

6 ``(13) the term 'Executive Director' means the
7 Executive Director appointed under section 8493(a)(1) of
8 this title;

9 ``(14) the term 'firefighter' means an employee the
10 duties of whose position--

11 ``(A) are primarily to perform work directly
12 connected with the control and extinguishment of
13 fires; and

14 ``(B) are sufficiently rigorous that employment
15 opportunities are required to be limited to young and
16 physically vigorous individuals, as determined by the
17 Director of the Office and the Director of the Office
18 of Management and Budget considering the
19 recommendation of the employing agency;

20 ``(15) the term 'Fund' means the Civil Service
21 Retirement and Disability Fund;

22 ``(16) the term 'Government' has the same meaning
23 provided in section 8331(7) of this title;

24 ``(17) the term 'law enforcement officer' means an
25 employee, the duties of whose position--

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1 “(A) are primarily the investigation,
2 apprehension, or detention of individuals suspected
3 or convicted of offenses against the criminal laws of
4 the United States, or the protection of officials of
5 the United States against threats to personal safety;
6 and

7 “(B) are sufficiently rigorous that employment
8 opportunities are required to be limited to young and
9 physically vigorous individuals, as determined by the
10 Director of the Office and the Director of the Office
11 of Management and Budget considering the
12 recommendation of the employing agency;

13 “(18) the term ‘loss’, when used with respect to the
14 Thrift Savings Fund, means the amount of the loss
15 realized from the investment of sums in such fund;

16 “(19) the term ‘lump-sum credit’ has the same
17 meaning as provided by section 8331(8) of this title;

18 “(20) the term ‘Member’ has the same meaning as
19 provided by section 2106 of this title, except that such
20 term does not include a Member who was subject to
21 subchapter III of chapter 83 of this title on December
22 31, 1983, and has not commenced participation in the
23 System pursuant to section 8471 of this title;

24 “(21) the term ‘net earnings’ means the excess of
25 earnings over losses;

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1 “(22) the term ‘net losses’ means the excess of
2 losses over earnings;

3 “(23) the term ‘normal cost’ means the entry-age
4 normal cost of the System, computed by the Office in
5 accordance with generally accepted actuarial practice and
6 standards (using dynamic assumptions) and expressed as a
7 level percentage of aggregate basic pay;

8 “(24) the term ‘Office’ means the Office of
9 Personnel Management;

10 “(25) the term ‘participant’ means an employee or
11 Member;

12 “(26) the term ‘price index’ has the same meaning as
13 provided in section 8331(15) of this title;

14 “(27) the term ‘service’, when used with respect to
15 a participant or former participant, means, subject to
16 section 8419(a) of this title, employment of the
17 participant or former participant (while a participant)
18 that--

19 “(A) would be creditable under section 8332 of
20 this title if the participant or annuitant were
21 subject to subchapter III of chapter 83 of this title
22 instead of this chapter; and

23 “(B) is not credited for the purposes of the
24 application of such subchapter to the participant or
25 former participant;

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1 “(28) the term ‘supplemental liability’, when used
2 with respect to a fiscal year, means the estimated excess
3 of--

4 “(A) the sum of--

5 “(1) the present value of all future
6 benefits payable from the Fund after such fiscal
7 year to participants and former participants, and
8 to their survivors, under this chapter, computed
9 in accordance with generally accepted actuarial
10 practice and standards (using dynamic
11 assumptions),

12 “(11) the excess of the amount of the
13 administrative expenses incurred by the Office in
14 carrying out this chapter during such fiscal year
15 over the amount of the administrative expenses
16 estimated for such fiscal year for the purposes
17 of clause (111) of this paragraph at the end of
18 the preceding fiscal year; and

19 “(111) the estimated amount of the
20 administrative expenses that the Office will
21 incur in carrying out this chapter during the
22 ensuing fiscal year; over

23 “(B) the sum of--

24 “(1) the total amount of the contributions
25 made on behalf of participants pursuant to

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1 section 8418(a) of this title;

2 "(ii) the present value of the future

3 contributions to be made on behalf of

4 participants pursuant to such section 8418(a);

5 "(iii) the amount of the net earnings from

6 investment of sums contributed on behalf of

7 participants pursuant to such section 8418(a);

8 and

9 "(iv) the present value of the amount of the

10 future net earnings expected to be realized from

11 investment of sums contributed on behalf of

12 participants pursuant to such section 8418(a);

13 and

14 "(29) the term 'System' means the Civil Service

15 Pension System described in section 8402(a) of this

16 title.

17 "\$ 8402. Civil Service Pension System; participation

18 "(a) The provisions of this chapter comprise the Civil

19 Service Pension System.

20 "(b)(1) Except as provided in paragraph (2) of this

21 subsection, each employee and Member shall be a participant

22 in the System.

23 "(2)(A) The Office may exclude from the operation of

24 this chapter an employee or group of employees in or under an

25 Executive agency whose employment is temporary or

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1 intermittent, except an employee whose employment is part-
2 time career employment (as defined in section 3401(2) of this
3 title).

4 "(B) The Architect of the Capitol may exclude from the
5 operation of this chapter an employee under the Office of the
6 Architect of the Capitol whose employment is temporary or of
7 uncertain duration.

8 "(C) The Librarian of Congress may exclude from the
9 operation of this chapter an employee under the Library of
10 Congress whose employment is temporary or of uncertain
11 duration.

12 "§ 8403. Relationship to the Social Security Act

13 "Except as otherwise provided in this chapter, the
14 benefits payable under the System are in addition to the
15 benefits payable under the Social Security Act.

16 "SUBCHAPTER II--BASIC PLAN

17 "§ 8411. Entitlement

18 "(a) An employee or a Member who is separated from
19 employment by the Federal Government after becoming 55 years
20 of age and completing 10 years of service is entitled to an
21 immediate annuity.

22 "(b) An employee or a Member who is separated from
23 employment by the Federal Government after becoming 62 years
24 of age and completing 5 years of service is entitled to an
25 immediate annuity.

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1 “(c) An employee who is separated from employment by the
2 Federal Government after completing 25 years of service as a
3 law enforcement officer or firefighter, or any combination of
4 such service totaling at least 25 years, is entitled to an
5 immediate annuity.

6 “(d) An employee who is separated from employment by the
7 Federal Government after completing 25 years as an air
8 traffic controller is entitled to an immediate annuity.

9 “(e)(1) For the purposes of this subsection, the term
10 ‘military technician’ means a member of one of the reserve
11 components of the Armed Forces specified in section 261(a) of
12 title 10 who is assigned to a civilian position as a
13 technician in the administration and training of such reserve
14 components of the Armed Forces or in the maintenance and
15 repair of supplies issued to such reserve components of the
16 Armed Forces.

17 “(2) A military technician who is separated from
18 employment by the Federal Government after becoming 55 years
19 of age and completing 30 years of service is entitled to an
20 immediate annuity.

21 “(f)(1) Except as provided in paragraphs (2) and (3) of
22 this subsection, any employee who has completed 25 years of
23 service, or is not less than 50 years of age and has
24 completed 20 years of service, and who--

25 “(A) is separated from employment by the Federal

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1 Government involuntarily, except by removal for cause on
2 charges of misconduct or delinquency, or

3 "(B) while serving in a geographic area designated
4 by the Director, is voluntarily separated from employment
5 by the Federal Government during a period that (as
6 determined by the Director)--

7 "(1) the agency in which the employee is serving
8 is undergoing a major reorganization, a major
9 reduction in force, or a major transfer of function,
10 and

11 "(11) a significant percentage of the total
12 number of employees serving in such agency will be
13 separated or subject to an immediate reduction in the
14 rate of basic pay (without regard to subchapter VI of
15 chapter 53 of this title or comparable provisions),
16 is entitled to an immediate annuity.

17 "(2) An employee described in paragraph (1)(A) of this
18 subsection is not entitled to an annuity under this
19 subsection if the employee has declined a reasonable offer of
20 another position in the employee's agency for which the
21 employee is qualified and the offered position is not lower
22 than 2 grades or pay levels below the employee's grade or pay
23 level and is within the employee's commuting area.

24 "(3) Paragraph (1) of this subsection shall not apply to
25 a firefighter, a law enforcement officer, an air traffic

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1 controller, or a military technician (as defined in section
2 8411(e)(1) of this title).

3 “(g) An annuity authorized by this section is computed
4 under sections 8413 through 8415 of this title.

5 “§ 8412. Deferred retirement

6 “(a) A participant who is under 55 years of age and
7 separates from employment by the Federal Government after
8 completing 10 years of civilian service is entitled to an
9 annuity to commence on or after the date the participant
10 becomes ~~55~~ years of age but not later than the date the
11 participant becomes 52 years of age, as elected by the
12 participant under rules prescribed by the Office.

13 “(b) A participant who is under 62 years of age and
14 separates from employment by the Federal Government after
15 completing 5 years of civilian service and before completing
16 10 years of civilian service is entitled to an annuity to
17 commence on the date the participant becomes 62 years of age.

18 “(c) An annuity authorized by this section is computed
19 under sections 8413 through 8415 of this title.

20 “§ 8413. Computation of annuity

21 “(a)(1) Except as provided in section 8414 or 8415 of
22 this title, the amount of the annuity a former participant is
23 entitled to receive under this subchapter shall be equal to
24 the product of 1 percent of the former participant's average
25 pay (while serving as an employee or Member) multiplied by

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1 the participant's total service.

2 "(2) For the purposes of computing the amount of an
3 annuity under paragraph (1) of this subsection, the total
4 service of a participant who separates from employment by the
5 Federal Government entitled to an immediate annuity or who
6 dies leaving a survivor or survivors entitled to a survivor
7 annuity includes the days of unused sick leave credited to
8 the participant under a formal leave system.

9 "(b)(1) Except as provided in section 8415 of this
10 title, a former participant who is entitled to receive an
11 annuity under subsection (c) or (d) of section 8411 of this
12 title and is at least 55 years of age and not more than 62
13 years of age shall be entitled to receive an annuity
14 supplement, in addition to the amount of the annuity computed
15 under subsection (a) of this section, while the former
16 participant is under 62 years of age.

17 "(2) The amount of the annuity supplement payable to a
18 former participant under paragraph (1) of this subsection
19 shall be equal to the amount of the benefits that--

20 "(A) the former participant would be entitled to
21 receive under title II of the Social Security Act if the
22 participant were 62 years of age on the date the annuity
23 referred to in such paragraph commences; and -

24 "(B) is attributable to service referred to in
25 section 8411(c) or 8411(d) of this title, as applicable,

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1 increased as provided in paragraph (3) of this subsection.

2 “(3) Effective on January 1 of each year, the amount of
3 the annuity supplement payable to a former participant under
4 this subsection shall be increased by the applicable
5 percentage increase (as defined in section 215(1)(1)(C) of
6 the Social Security Act) by which benefits under title II of
7 the Social Security Act are adjusted in December of the
8 preceding year.

9 “§ 8414. Reduction for early retirement

10 ““The annuity computed under section 8413(a) of this
11 title (without regard to this section or section 8415 of this
12 title)--

13 “(1) for a participant, other than a participant
14 referred to in paragraph (2) or (3) of this section, who
15 is under 62 years of age on the date the participant
16 becomes entitled to receive the annuity shall be reduced
17 by 2 percent for each year or fraction of a year that the
18 participant is under such age on the date the annuity
19 commences to accrue;

20 “(2) for a participant, other than a participant
21 entitled to an immediate annuity under section 8411(f) of
22 this title and a participant referred to in paragraph (3)
23 of this subsection, who is under 62 years of age on the
24 date the participant becomes entitled to receive the
25 annuity and who is separating or was separated from the

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1 employment by the Federal Government on which the
2 entitlement is based after becoming 55 years of age and
3 before completing 30 years of service shall be reduced by
4 5 percent for each year or fraction of a year that the
5 participant is under 62 years of age on the date the
6 annuity commences to accrue; and

7 "(3) for a participant separating from employment by
8 the Federal Government entitled to an immediate annuity
9 under subsection (c), (d), or (e) of section 8411 of this
10 title shall be reduced by 5 percent for each year or
11 fraction of a year that the participant is under 55 years
12 of age on the date the annuity commences to accrue.

13 "§ 8415. Reduction for survivor annuities

14 "(a) The annuity of a former participant computed under
15 section 8413 of this title and, if appropriate, under section
16 8414 of this title shall be reduced by the appropriate amount
17 such that the total amount of the retirement benefits
18 expected to be payable to the former participant under this
19 subchapter and all survivor benefits expected to be payable
20 with respect to the former participant pursuant to sections
21 8432 and 8434 of this title is equal to the total amount of
22 the retirement benefits that would be expected to be payable
23 under this subchapter to the former participant pursuant to
24 the method referred to in section 8416(b)(1) of this title,
25 as computed in accordance with generally accepted actuarial

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1 practices and standards.

2 ~~“(b) A~~ reduction in the annuity of a former participant
3 pursuant to subsection (a) of this section shall be adjusted,
4 as appropriate to carry out such subsection, to reflect any
5 change in circumstances relating to entitlement to a survivor
6 annuity, including any election made pursuant to subsection
7 (b), (c), or (d) of section 8435 of this title.

8 “§ 8416. Methods of Payment

9 “(a)(1) The Office shall prescribe methods of payment of
10 annuities under this subchapter.

11 “(2) The methods of payment prescribed under paragraph
12 (1) of this subsection shall include, but not be limited to--

13 “(A) a method providing for the payment of a monthly
14 annuity only to a former participant entitled to the
15 annuity during the life of the former participant; and

16 “(B) a method providing for the payment of a monthly
17 annuity for the joint lives of a former participant and
18 the spouse of the former participant and the life of the
19 one of them who survives the other of them.

20 “(b) Subject to section 8432 of this title--

21 “(1) under such regulations as the Office shall
22 prescribe, each former participant shall elect one of the
23 methods of payment prescribed by the Office under
24 subsection (a) of this section; and

25 “(2) the annuity of the former participant under

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1 this subchapter shall be paid in accordance with the
2 method of payment elected by the former participant
3 pursuant to paragraph (1) of this subsection.

4 ``§ 8417. Level benefits option

5 ``(a) Under regulations prescribed by the Office, an
6 annuity payable under this subchapter to a participant who is
7 separating from employment by the Government entitled to an
8 immediate annuity under subsection (a), (b), or (e) of
9 section 8411 of this title and is less than 62 years of age
10 may be adjusted as provided in subsection (b) of this
11 section, if elected by the participant on or before the date
12 of separation.

13 ``(b)(1) Subject to paragraph (2) of this subsection, an
14 annuity payable under this subchapter to a former participant
15 who has made an election authorized by subsection (a) of this
16 section may be increased during the period the former
17 participant is not less than 55 years of age and is less than
18 62 years of age and may be reduced on and after the date the
19 former participant is not less than 62 years of age as
20 appropriate to provide the former participant an annuity
21 under this subchapter during such period and total benefits
22 under this subchapter and section 202(a) of the Social
23 Security Act after such date at an approximately stable
24 level.

25 ``(2) The total amount of the benefits expected to be

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1 paid under this subchapter to the former participant as
2 provided in paragraph (1) of this subsection on and after the
3 date the former participant becomes 55 years of age may not
4 exceed the total amount of the benefits that would be
5 expected to be paid under this subchapter to such participant
6 on and after such date if the adjustments authorized by such
7 paragraph were not made, as computed in accordance with
8 generally accepted actuarial practices and standards.

9 ``§ 8418. Funding

10 `` (a)(1) Each agency of the Federal Government employing
11 a participant shall contribute to the Fund an amount equal to
12 the normal cost of the agency's employees, as determined by
13 the Office.

14 `` (2) The contribution required by paragraph (1) of this
15 subsection to be made by an agency shall be made from the
16 appropriation or fund used to pay the agency's participants,
17 or, in the case of an elected participant, from an
18 appropriation or fund available for payment of other salaries
19 of the office or establishment of the participant. In the
20 case of a participant in the legislative branch who is paid
21 by the Clerk of the House of Representatives, contributions
22 for the benefit of such participant shall be paid from the
23 contingent fund of the House of Representatives. -

24 `` (b)(1) The Office shall compute--

25 `` (A) the amount of the supplemental liability of the

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1 Fund relating to participants and former participants
2 other than participants and former participants referred
3 to in subparagraph (B) of this paragraph, and

4 "(B) the amount of the supplemental liability of the
5 Fund relating to participants and former participants who
6 are active or retired officers or employees of the United
7 States Postal Service,

8 as of the close of each fiscal year beginning after September
9 30, 1987.

10 "(2) The amounts of any supplemental liability--

11 "(A) computed pursuant to paragraph (1) (A) of this
12 subsection with respect to participants and former
13 participants referred to in such paragraph (1) (A) of
14 this subsection, and

15 "(B) computed pursuant to paragraph (1) (B) of this
16 subsection with respect to participants and former
17 participants referred to in such paragraph (1) (B),
18 shall each be amortized in thirty annual installments.

19 "(3) At the end of each fiscal year, the Office shall
20 notify--

21 "(A) the Secretary of the Treasury of the amount of
22 the annual installment computed under paragraph (2) (A)
23 of this subsection for such fiscal year, and -

24 "(B) the Postmaster General of the United States of
25 the amount of the annual installment computed pursuant to

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1 paragraph (2) (B) of this subsection for such fiscal
2 year.

3 "(4)(A) Before closing the accounts for a fiscal year,
4 the Secretary of the Treasury shall credit the amount of the
5 annual installment computed for such fiscal year pursuant to
6 paragraph (2) (A) to the Fund, as a Government contribution,
7 out of any money in the Treasury of the United States not
8 otherwise appropriated.

9 "(B) Upon receiving a notice required by paragraph (3)
10 (B) of this subsection, the United States Postal Service
11 shall pay the amount of the annual installment specified in
12 the notice. The amount paid shall be credited to the Fund.

13 "\$ 8419. Funding of annuity attributable to military service

14 "(a) A participant's or former participant's service
15 shall include credit for military service as provided in
16 section 8332(c) of this title without regard to whether the
17 participant or former participant has made a deposit covering
18 such military service as provided in section 8334(j) of this
19 title.

20 "(b)(1) Before closing the accounts for a fiscal year,
21 the Secretary of the Treasury shall reimburse the Fund from
22 the Department of Defense Military Retirement Fund
23 (established by section 1461(a) of title 10) for the normal
24 cost relating to the military service of employees and
25 Members who became participants during such fiscal year, as

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1 determined by the Office.

2 “(2) The assets of the Department of Defense Military
3 Retirement Fund are made available for payments required by
4 paragraph (1) of this subsection.

5 “(c) At the end of each fiscal year the Office shall
6 compute the amount of the reimbursement required by
7 subsection (b) of this section for the fiscal year and shall
8 notify the Secretary of the Treasury of that amount.

9 “SUBCHAPTER III--THRIFT SAVINGS PLAN

10 “§ 8421. Contributions

11 “(a)(1) Each participant may contribute to the Thrift
12 Savings Fund in any fiscal year any amount not exceeding 10
13 percent of the participant's annual rate of basic pay.

14 “(2) Each former participant receiving disability
15 benefits under subchapter V of this chapter may, until
16 becoming 62 years of age (in the case of a person who is
17 disabled within the meaning of section 8441(2)(A) of this
18 title) or until becoming 55 years of age (in the case of a
19 person who is disabled within the meaning of section
20 8441(2)(B) of this title), contribute to the Thrift Savings
21 Fund in any fiscal year any amount not exceeding 10 percent
22 of the amount of the former participant's disability benefits
23 payable under such subchapter during such fiscal year.

24 “(3) Any contribution under this subsection shall be
25 made only pursuant to a program of regular contributions to

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1 be made at the end of each pay period of the participant, or
2 at the end of each disability benefits payment period in the
3 case of a disabled former participant, under such regulations
4 as the Board shall prescribe.

5 “(4) At least once each year, a participant or former
6 participant may modify the amount contributed pursuant to
7 paragraph (1) or (2) of this subsection, as the case may be,
8 under such regulations as the Board shall prescribe.

9 “(b) The employing agency of a participant who
10 contributes to the Thrift Savings Fund under subsection (a)
11 of this section for any pay period, or, in the case of a
12 disabled former participant who contributes to such fund
13 under such subsection for any disability benefits payment
14 period, the employing agency of the former participant on the
15 date the former participant became disabled (as defined in
16 section 8441(2) of this title), shall contribute to the
17 Thrift Savings Fund for the benefit of such participant or
18 disabled former participant at the end of such period an
19 amount equal to such portion of the amount of the
20 contribution of the participant or former participant as does
21 not exceed 5 percent of the amount of the gross pay or gross
22 disability benefits, as the case may be, payable for such
23 period.

24 “(c) The sums required to be contributed to the Thrift
25 Savings Fund by an employing agency under subsection (b) of

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1 this section for the benefit of a participant or disabled
2 former participant shall be paid from the appropriations or
3 funds available to such agency to pay the basic pay of
4 participants or, in the case of an elected participant, from
5 an appropriation or fund available for payment of other
6 salaries of the participant's office or establishment. In the
7 case of a participant in the legislative branch who is paid
8 by the Clerk of the House of Representatives, contributions
9 for the benefit of such participant shall be paid from the
10 contingent fund of the House of Representatives.

11 "(d) For purposes of the Internal Revenue Code of 1954--

12 "(1) any amount of the participant's pay which is
13 contributed to the Thrift Savings Fund and the amount of
14 the employing agency's matching contributions shall not
15 be included in the gross income of the participant; and

16 "(2) the Thrift Savings Fund shall be treated, for
17 purposes of determining when amounts in such Fund are
18 included in the income of any participant, as described
19 in section 401(a) of such Code.

20 "§ 8422. Vesting

21 "(a)(1) A participant who separates from employment by
22 the Government shall be entitled to an amount equal to--

23 "(A) the sum of the total amount of the -
24 contributions made under section 8421(a) of this title
25 and the total amount of the net earnings in the Thrift

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1 Savings Fund attributable to such contributions; and

2 "(B) the applicable percentage of the sum of the
3 total amount contributed to the Thrift Savings Fund for
4 the benefit of the participant under section 8421(b) of
5 this title and the total amount of the net earnings in
6 the Thrift Savings Fund attributable to such
7 contributions, as provided in subsection (b) of this
8 section.

9 "(2) The amount to which a participant is entitled under
10 paragraph (1) of this subsection shall be payable in
11 accordance with the election made by the participant pursuant
12 to section 8423 of this title.

13 "(b)(1) For the purpose of subsection (a)(1)(B) of this
14 section, except as provided in paragraph (2) of this
15 subsection, the applicable percentage for a participant
16 separating from employment by the Government after having
17 been a participant in the System for a period set forth under
18 column I of the table below is the percentage set forth under
19 column II of the table below opposite the description of such
20 period:

Column IColumn II

Period for which the participant has been a participant in the System:	Applicable percentage:
Less than 1 year.	0
Not less than 1 year, but less than 2 years	20
Not less than 2 years, but less than 3 years.	40
Not less than 3 years, but less than 4 years.	50
Not less than 4 years, but less than 5 years.	80

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Not less than 5 years 100.

1 “(2) For the purposes of subsection (a)(1)(B) of this
2 section--

3 “(A) the percentage applicable in the case of any
4 participant who dies while employed by the Government
5 shall be 100 percent; and

6 “(B) in the case of a former participant making
7 contributions under section 8421(a)(2) of this title, the
8 period for which the person has been a participant in the
9 System shall include periods for which such contributions
10 were made.

11 “(c) When an election is made by a participant under
12 section 8423(c) of this title, the amount equal to the excess
13 of--

14 “(1) the sum of--

15 “(A) the amounts contributed to the Thrift
16 Savings Fund with respect to the participant under
17 section 8421 of this title; and

18 “(B) the net earnings in the Thrift Savings Fund
19 attributable to such contributions, over

20 “(2) the amount in the Thrift Savings Fund paid or
21 reserved for payment to or with respect to the
22 participant pursuant to section 8423(c) of this title,
23 shall be transferred to the Treasury of the United States for
24 credit to Miscellaneous Receipts.

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1 ``S 8423. Entitlement and elections relating to entitlement
2 ``(a) Any participant who separates from employment by
3 the Government entitled to an immediate annuity under section
4 8411 of this title is entitled and may elect--

5 ``(1) to receive an immediate annuity from the Thrift
6 Savings Fund;

7 ``(2) to defer the commencement of the payment of an
8 annuity from the Thrift Savings Fund until such date as
9 the participant specifies;

10 ``(3) to withdraw, in one payment, the amount of the
11 balance credited to the participant's account in the
12 Thrift Savings Fund as of the date of the payment; or

13 ``(4) to transfer the amount of the balance in the
14 account to an individual retirement account or other
15 qualified plan (within the meaning of the Internal
16 Revenue Code of 1954) of the participant.

17 ``(b) Any participant who separates from employment by
18 the Government entitled to a deferred annuity under section
19 8412 of this title is entitled and may elect--

20 ``(1) to receive an annuity from the Thrift Savings
21 Fund to commence on the date accrual of the deferred
22 annuity under such section commences;

23 ``(2) to defer the commencement of the payment of an
24 annuity from the Thrift Savings Fund until a date after
25 the date referred to in paragraph (1) of this subsection,

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1 as specified by the participant;

2 "(3) to withdraw in one payment, on or after the
3 date referred to in paragraph (1) of this subsection, the
4 amount of the balance credited to the participant's
5 account in the Thrift Savings Fund as of such date; or

6 "(4) to transfer the amount of the balance in the
7 account to an individual retirement account or other
8 qualified plan (within the meaning of the Internal
9 Revenue Code of 1954) of the participant.

10 "(c) Subject to section 8425(d) of this title, any
11 participant who separates from employment by the Government
12 before becoming entitled to an immediate annuity under
13 section 8411 of this title is entitled and may elect--

14 "(1) to receive an annuity from the Thrift Savings
15 Fund commencing when the participant becomes 62 years of
16 age;

17 "(2) to withdraw, in one payment, the amount of the
18 balance credited to the participant's account in the
19 Thrift Savings Funds (subject to the limitations set out
20 in section 8422(a)(1) of this title), payable when the
21 participant becomes 62 years of age; or

22 "(3) to transfer such amount to an individual
23 retirement account or other qualified plan (within the
24 meaning of the Internal Revenue Code of 1954) of the
25 participant.

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1 “(d)(1) Subject to paragraph (2) of this subsection, any
2 participant making an election pursuant to subsection (a)(2)
3 or (b)(2) of this section may modify the date specified in
4 the election.

5 “(2) Any modification under paragraph (1) of this
6 subsection may not specify a date for the commencement of
7 annuity payments earlier than 1 month after the date such
8 modification is filed with the Board.

9 “§ 8424. Annuities: methods of payment; election; and
10 computation

11 “(a)(1) The Board shall prescribe methods of payment of
12 annuities under this subchapter.

13 “(2) The methods of payment prescribed under paragraph
14 (1) of this subsection shall include, but not be limited to--

15 “(A) a method providing for the payment of a monthly
16 annuity only to a former participant during the life of
17 the former participant;

18 “(B) a method providing for the payment of a monthly
19 annuity for the joint lives of a former participant and
20 the spouse of the former participant and the life of the
21 one of them who survives the other of them;

22 “(C) a method described in subparagraph (A) of this
23 paragraph which provides annual increases in the amount
24 of the annuity payable; and

25 “(D) a method described in subparagraph (B) of this

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1 paragraph which provides annual increases in the amount
2 of the annuity payable.

3 `` (b) Under such regulations as the Board shall
4 prescribe, each former participant electing under section
5 8423 of this title to receive an annuity from the Thrift
6 Savings Fund shall elect one of the methods of payment
7 prescribed by the Board under subsection (a) of this section.

8 `` (c)(1) Subject to paragraph (2) of this subsection, the
9 amount of the annuity payable under this subchapter to a
10 former participant pursuant to the method elected under
11 subsection (b) of this section shall be determined, as of the
12 date on which the payment of the annuity under the elected
13 method commences, in accordance with generally accepted
14 actuarial practices and standards based on the balance in the
15 annuitant's account on such date and the anticipated net
16 earnings from investments allocable to such account.

17 `` (2) The total amount of all retirement benefits
18 expected to be payable to a former participant under this
19 subchapter and all survivor benefits expected to be payable
20 with respect to the former participant pursuant to an
21 election made under subsection (b) of this section and
22 pursuant to section 8434 of this title shall be equal to the
23 total amount of the retirement benefits that would be
24 expected to be payable under this subchapter to the former
25 participant pursuant to the method referred to in subsection

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1 (a)(2)(A) of this section, determined in accordance with
2 generally accepted actuarial practices and standards.

3 `` (3) The amount of the annuity payable to a former
4 participant under this subchapter shall be redetermined if--

5 `` (A) an individual entitled to a survivor annuity
6 pursuant to an election made under subsection (c) of this
7 section or pursuant to section 8434 of this title dies or
8 loses the entitlement to the survivor annuity; or

9 `` (B) the former participant makes an election
10 pursuant to section 8435 of this title.

11 `` (d) At the end of each fiscal year, the investment
12 experience relating to the investments used to fund the
13 annuity paid to an annuitant during such fiscal year shall be
14 compared to the actuarial assumptions that were considered to
15 compute the amount of the annuity payable from the Thrift
16 Savings Fund to the annuitant under this subchapter during
17 such fiscal year. Under regulations issued by the Board, the
18 excess of the amount of the return, if any, over the amount
19 of the assumed return shall be considered for use to purchase
20 an additional annuity payable from the Thrift Savings Fund.
21 ~~The~~ amount of the additional annuity shall be computed by the
22 Board in accordance with generally accepted actuarial
23 practices and standards.

24 `` § 8425. Administrative provisions relating to payments and
25 elections

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1 “(a) The Board shall make payments and transfers in
2 accordance with an election of a participant under section
3 8423 or 8424(b) of this title.

4 “(b) Any election under section 8423 or 8424 of this
5 title shall be in writing and shall be filed with the Board
6 in accordance with such rules as the Board may prescribe.

7 “(c) Notwithstanding any other provision of this
8 section, an election or modification of an election under any
9 provision of this subchapter shall not be effective if the
10 election or modification would result in a violation of the
11 terms of an applicable court decree of divorce, annulment, or
12 legal separation, or the terms of any court order or court-
13 approved property settlement agreement incident to a court
14 decree of divorce, annulment, or legal separation, as
15 determined by the Executive Director.

16 “(d)(1) A participant may make an election authorized by
17 paragraph (2) or (3) of section 8423(c) of this title--

18 “(A) only if the spouse and each eligible former
19 spouse of the participant are notified of the
20 participant's election; and

21 “(B) in any case in which there is an eligible
22 former spouse, shall be subject to the terms of a court
23 order or decree issued with respect to such former spouse
24 if--

25 “(1) the order or decree expressly relates to

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1 any portion of the amount involved, and

2 ``(11) payment of the amount in accordance with
3 the election would extinguish entitlement of the
4 former spouse to a survivor annuity under section
5 8434 of this title or to any portion of an annuity
6 under section 8467 of this title.

7 ``(2)(A) Notification of a spouse or eligible former
8 spouse under this subsection shall be made in accordance with
9 such requirements as the Board shall by regulation prescribe.

10 ``(B) Under the regulations, the Board may provide that
11 paragraph (1)(A) of this subsection may be waived with
12 respect to a spouse or eligible former spouse if the
13 participant establishes to the satisfaction of the Board that
14 the location of such spouse or former spouse cannot be
15 determined.

16 ``(3) The Board shall prescribe regulations under which
17 this subsection shall be applied in any case in which the
18 Office receives two or more applicable court orders or
19 decrees.

20 ``§ 8426. Thrift Savings Fund

21 ``(a) There is established in the Treasury of the United
22 States a Thrift Savings Fund.

23 ``(b) The Thrift Savings Fund consists of the sum of all
24 amounts contributed under section 8421 of this title
25 increased by the total net earnings from investments of sums

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1 in the Thrift Savings Fund or reduced by the total net losses
2 from investments of the Thrift Savings Fund.

3 "(c) The sums in the Thrift Savings Fund are
4 appropriated and shall remain available without fiscal year
5 limitation--

6 "(1) to invest under section 8427 of this title;

7 "(2) to pay benefits under this subchapter;

8 "(3) to pay the administrative expenses of the
9 Board; and

10 "(4) to make loans to participants as authorized
11 under subsection (e) of this section.

12 "(d)(1) Except as provided in paragraph (2) of this
13 subsection, sums in the Thrift Savings Fund are not subject
14 to execution, levy, attachment, garnishment, or other legal
15 process.

16 "(2) Moneys due or payable from the Thrift Savings Fund
17 to any individual and, in the case of an individual who is a
18 participant, moneys which the individual would be entitled to
19 receive under section 8422 of this title upon separation from
20 employment by the Federal Government shall be subject to
21 legal process for the enforcement of the individual's legal
22 obligations to provide child support or make alimony payments
23 as provided in section 459 of the Social Security Act (42
24 U.S.C. 659).

25 "(e) The Board may establish a program to make loans

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1 from the Thrift Savings Fund to a participant in case of
2 hardship and may prescribe regulations to carry out any such
3 program. Any such loan may be made only out of sums
4 contributed to the Thrift Savings Fund by the participant and
5 net earnings attributable to such sums.

6 "(f) The sums in the Thrift Savings Fund shall not be
7 appropriated and may not be used for any purpose other than
8 the purposes specified in this section.

9 "\$ 8427. Investment of Thrift Savings Fund

10 "(a) For the purposes of this section--

11 "(1) the term 'Common Stock Index Investment Fund'
12 means the Common Stock Investment Fund established under
13 subsection (b)(3) of this section;

14 "(2) the term 'equity capital' means common and
15 preferred stock, surplus, undivided profits, contingency
16 reserves, and other capital reserves;

17 "(3) the term 'Government Securities Investment
18 Fund' means the Government Securities Investment Fund
19 established under subsection (b)(1) of this section;

20 "(4) the term 'Guaranteed Income Investment Fund'
21 means the Guaranteed Income Investment Fund established
22 under subsection (b)(2) of this section;

23 "(5) the term 'net worth' means capital,--paid-in and
24 contributed surplus, unassigned surplus, contingency
25 reserves, group contingency reserves, and special

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1 reserves;

2 '(6) the term 'plan' means an employee benefit plan,
3 as defined in section 3(3) of the Employee Retirement
4 Income Security Act of 1974 (29 U.S.C. 1002(3)); and

5 '(7) the term 'qualified professional asset manager'
6 means--

7 '(A) a bank, as defined in section 202(a)(2) of
8 the Investment Advisers Act of 1940 (15 U.S.C. 80b-
9 2(a)(2)) which--

10 '(1) has the power to manage, acquire, or
11 dispose of assets of a plan; and

12 '(11) has, as of the last day of its most
13 recent fiscal year, equity capital in excess of
14 \$1,000,000;

15 '(B) a savings and loan association, the
16 accounts of which are insured by the Federal Savings
17 and Loan Insurance Corporation, which--

18 '(1) has made application for and been
19 granted trust powers to manage, acquire, or
20 dispose of assets of a plan by a State or Federal
21 Government authority having supervision over
22 savings and loan associations; and

23 '(11) has, as of the last day of its most
24 recent fiscal year, equity capital or net worth
25 in excess of \$1,000,000; or

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1 “(C) an insurance company which--

2 “(1) is qualified under the laws of more
3 than one State to manage, acquire, or dispose of
4 any assets of a plan;

5 “(11) has, as of the last day of its most
6 recent fiscal year, net worth in excess of
7 \$1,000,000; and

8 “(111) is subject to supervision and
9 examination by a State authority having
10 supervision over insurance companies.

11 “(b) The Board shall establish and, subject to
12 subsection (f) of this section, administer--

13 “(1) a Government Securities Investment Fund under
14 which sums in the Thrift Savings Fund are invested in
15 securities of the United States Government issued as
16 provided in subsection (g) of this section;

17 “(2) a Guaranteed Income Investment Fund under which
18 sums in the Thrift Savings Fund are invested in insurance
19 contracts, certificates of deposits, or other instruments
20 which are issued by qualified professional asset managers
21 and which guarantee the return of the amount invested and
22 the payment of a specified rate of interest on that
23 amount over a fixed term or at a fixed maturity date;

24 “(3) a Common Stock Index Investment Fund under
25 which sums in the Thrift Savings Fund are invested in the

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1 common stock issues included in a commonly recognized
2 index of common stocks such that the total value of the
3 shares of each issue owned by the Thrift Savings Fund
4 bears the same ratio to the total value of the shares of
5 all such issues owned by the Thrift Savings Fund as the
6 total value of the shares of such issue of common stock
7 bears to the total value of all shares of common stocks
8 included in the index; and

9 "(4) such other investment funds as the Board
10 determines to be appropriate for the purposes of this
11 subchapter.

12 "(c)(1) The Board shall invest in the Government
13 Securities Investment Fund the sums which are in the Thrift
14 Savings Fund, are available for investment, and are not to be
15 invested in an investment fund referred to in subsection
16 (b)(2), (b)(3), or (b)(4) of this section pursuant to an
17 election made under subsection (d) of this section.

18 "(2) Subject to subsection (e) of this section, the
19 Board shall invest sums which are in the Thrift Savings Fund
20 and are available for investment in accordance with elections
21 made under subsection (d) of this section.

22 "(d)(1) Except as provided in subsection (e) of this
23 section, at least once each year, a participant or former
24 participant may elect the investment funds referred to in
25 subsection (b) of this section into which the sums in the

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1 Thrift Savings Fund credited to the account of such
 2 participant or former participant are to be invested.

3 "(2) The election may be made by a participant or former
 4 participant under paragraph (1) of this subsection only in
 5 accordance with rules prescribed by the Board and within such
 6 period after the date the participant's or former
 7 participant's annual statement is transmitted to the
 8 participant or former participant pursuant to section 8428(c)
 9 of this title as the Board shall prescribe in such rules.

10 "(e)(1)(A) The Board shall invest a percentage of the
 11 total amount that--

12 "(1) is contributed to the Thrift Savings Fund by a
 13 participant under section 8421(a) of this title during a
 14 year described under column I of the table of minimum
 15 Government securities investments set out in subparagraph
 16 (B) of this paragraph, and

17 "(11) is available for investment,
 18 in the Government Securities Investment Fund as provided
 19 under column II of the table opposite the description of such
 20 year.

21 "(B) For the purposes of subparagraph (A) of this
 22 paragraph, the table of minimum Government securities
 23 investments is as follows:

"Column I	Column II
Year this chapter is in effect:	Minimum percentage of the amounts contributed by

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a participant for
each month of such year
to be invested in the
Government Securities
Investment Fund:

First year	100
Second year	80
Third year	60
Fourth year	40
Fifth year	20.

1 “(2)(A) The Board shall invest a percentage of the total
2 amount that--

3 “(1) is contributed to the Thrift Savings Fund by
4 the Government for the benefit of a participant pursuant
5 to section 8421(b) of this title during a year described
6 under column I of the table of minimum Government
7 securities investments set out in subparagraph (B) of
8 this paragraph, and

9 “(ii) is available for investment,
10 in the Government Securities Investment Fund as provided
11 under column II of the table opposite the description of such
12 year.

13 “(B) For the purposes of subparagraph (A) of this
14 paragraph, the table of minimum Government securities
15 investments is as follows:

“Column I	Column II
Year this chapter is in effect:	Minimum percentage of the amounts contributed for the benefit of a participant for each month of such year to be invested in the Government Securities

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Investment Fund:

First through	
fifth years	100
Sixth year	80
Seventh year	60
Eighth year	40
Ninth year	20.

1 “(3) All sums credited to the Thrift Savings Fund
2 pursuant to section 8473(b) of this title shall be invested
3 in the Government Securities Investment Fund.

4 “(4) The sums which are invested in the Government
5 Securities Investment Fund as required by this subsection and
6 are returned to the Thrift Savings Fund after maturity of the
7 securities purchased with such sums, and the amounts earned
8 on the investment of such sums, shall be reinvested in the
9 Government Securities Investment Fund.

10 “(f) The Board may contract with one or more private
11 business concerns to administer any investment fund referred
12 to in subsection (b)(2), (b)(3), or (b)(4) of this section.

13 “(g) The Secretary of the Treasury shall issue notes
14 under section 3103 of title 31 as appropriate to meet the
15 investment needs of the Thrift Savings Fund under this
16 section. The notes shall have a two-year maturity and shall
17 bear interest at a rate equal to the average market yield,
18 computed as of the end of the calendar month next preceding
19 the date of the issue, of all two-year notes then forming a
20 part of the public debt of the United States. If the average
21 market yield is not a multiple of 1/8 of 1 percent, the rate

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1 of interest on the obligations shall be the multiple of $1/8$
2 of 1 percent nearest the average market yield.

3 ``§ 8428. Accounting

4 `` (a)(1) The Board shall establish and maintain an
5 account for each participant making contributions under
6 section 8421(a) of this title.

7 `` (2) The balance in the account of a participant or
8 former participant at any time is the excess of--

9 `` (A) the sum of--

10 `` (i) all contributions made to the Thrift
11 Savings Fund by the participant or former participant
12 under section 8421(a) of this title;

13 `` (ii) all contributions made to such fund for
14 the benefit of the participant or former participant
15 under section 8421(b) of this title;

16 `` (iii) the amounts transferred from such fund
17 with respect to the participant or former participant
18 under section 8473(b) of this title; and

19 `` (iv) the total amount of the allocations made
20 to and reductions made in the account pursuant to
21 paragraph (3) of this section, over

22 `` (B) the amounts paid out of the Thrift Savings Fund
23 with respect to such participant under subchapters II and
24 IV of this title.

25 `` (3) Pursuant to rules prescribed by the Board, the

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1 Board shall allocate to the credit of the account of each
2 participant or former participant an amount equal to a pro
3 rata share of the net earnings and net losses from each
4 investment of sums in the Thrift Savings Fund attributable to
5 sums credited to the account of such participant, reduced by
6 an appropriate share of--

7 “(A) the administrative expenses of the Board, and

8 “(B) any amount reserved by the Board to pay

9 underfunded annuities,

10 as determined by the Board.

11 “(b) Each agency employing a participant shall report to
12 the Board at the end of each month all amounts contributed by
13 or for the benefit of the participant during such month under
14 section 8421(b) of this title.

15 “(c) The Board shall provide each participant and former
16 participant an annual statement of the balance in the
17 participant's or former participant's account.

18 “(d)(1) For the purposes of this subsection, the term
19 'qualified public accountant' shall have the same meaning as
20 provided in section 103(a)(3)(D) of the Employee Retirement
21 Income Security Act of 1974 (29 U.S.C. 1024(a)(3)(D)).

22 “(2) The Board shall annually engage, on behalf of all
23 participants, an independent qualified public accountant, who
24 shall conduct an examination of any accounts established
25 under subsection (a) of this section and of other books and

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1 records maintained in the administration of this subchapter
2 as the accountant considers necessary to enable the
3 accountant to make the determination required by paragraph
4 (3) of this subsection. The examination shall be conducted in
5 accordance with generally accepted auditing standards and
6 shall involve such tests of the accounts, books, and records
7 as the independent qualified public accountant considers
8 necessary.

9 “(3) The accountant conducting an examination under
10 paragraph (2) of this subsection shall whether the accounts,
11 books, and records referred to in such paragraph have been
12 maintained fairly in conformity with generally accepted
13 accounting principles applied on a basis consistent with the
14 application of such principles during the examination
15 conducted under such paragraph during the preceding year. The
16 independent qualified public accountant shall transmit to the
17 Board a report on his examination, including his
18 determination under this paragraph.

19 “(4) In making a determination under paragraph (3) of
20 this subsection, the accountant may rely on the correctness
21 of any actuarial matter certified by an enrolled actuary, if
22 the accountant states his reliance in the report transmitted
23 to the Board under such paragraph.

24 “SUBCHAPTER IV--SURVIVOR BENEFITS

25 “§ 8431. Basic plan benefits relating to death of a

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1 participant

2 “(a)(1) If a participant dies after performing 5 or more
3 years of service and before separating from employment by the
4 Government and the participant satisfied the age and service
5 requirements for retirement entitled to an immediate annuity
6 under section 8411 of this title before the date of death,
7 the surviving spouse of a deceased participant shall be
8 entitled to a survivor annuity. The survivor annuity shall
9 commence on the first date the participant could have retired
10 entitled to an immediate annuity under section 8411 of this
11 title if the participant had continued to live and had
12 continued to be a participant until such date.

13 “(2) Except as provided in subsection (c) of this
14 section, the amount of the survivor annuity payable under
15 paragraph (1) of this subsection shall be equal to 50 percent
16 of the annuity computed with respect to the deceased
17 participant pursuant to sections 8413 and 8414 of this title
18 as if the participant had retired from employment by the
19 Government on the day before the date of death.

20 “(b)(1) If a participant dies after performing 5 or more
21 years of service and before separating from employment by the
22 Government and the participant has not satisfied the age and
23 service requirements for retirement entitled to an immediate
24 annuity under section 8411 of this title before the date of
25 death, the surviving spouse of a deceased participant shall

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1 be entitled to a survivor annuity. The survivor annuity shall
2 commence on the first date the participant could have retired
3 entitled to an immediate annuity under section 8411 of this
4 title if the participant had continued to live and had
5 continued to be a participant until such date.

6 "(2) Except as provided in subsection (c) of this
7 section, the amount of the survivor annuity payable under
8 paragraph (1) of this subsection shall be equal to 50 percent
9 of the annuity computed with respect to the deceased
10 participant pursuant to sections 8413 and 8414 of this title
11 as if the participant had continued to live, had continued to
12 be a participant until the first date the participant could
13 have retired entitled to an immediate annuity under section
14 8411 of this title, had retired from employment by the
15 Government on such date, and had elected the method of
16 payment described in section 8416(a)(2)(B) of this title.

17 "(c) The amount of the survivor annuity payable under
18 this section to the surviving spouse of a deceased
19 participant shall be equal to the excess, if any, of the
20 amount of the survivor annuity which would be payable to the
21 surviving spouse under this section without regard to this
22 subsection over the total amount of the survivor annuity or
23 survivor annuities payable pursuant to section 8434 of this
24 title to an eligible former spouse or eligible former spouses
25 of the deceased former participant.

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1 ``§ 8432. Basic plan benefits relating to death of a former
2 participant

3 ``(a) For the purposes of this section the term 'deceased
4 former participant's annuity' means--

5 ``(1) the annuity the deceased former participant was
6 entitled to receive under section 8411 of this title on
7 the day before the date of the former participant's
8 death; or

9 ``(2) in the case of a former participant who died
10 entitled to a deferred annuity under section 8412 of this
11 title before payment of the annuity commenced, the
12 annuity the deceased former participant would have been
13 entitled to receive under such section if the deceased
14 former participant had been 55 years of age on the day
15 before the date of death or, in the case of a former
16 participant who was 55 years of age or older on such day
17 and was not receiving such annuity, had commenced to
18 receive such annuity on such day.

19 ``(b)(1) Except as provided in paragraph (2) of this
20 subsection, the surviving spouse of a former participant who
21 dies after terminating employment entitled to an immediate or
22 deferred annuity under subchapter II of this chapter shall be
23 entitled to a survivor annuity as provided in subsection (c)
24 of this section.

25 ``(2)(A) A survivor annuity shall not be paid to a

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1 surviving spouse of a former participant who, jointly with
2 the former participant, waived a survivor annuity under this
3 section as provided in subparagraph (B) of this paragraph.

4 “(B) For the purposes of subparagraph (A) of this
5 paragraph, a waiver may be made only in writing, on or before
6 the date on which payment of an annuity to the former
7 participant commences under subchapter II of this chapter,
8 and in accordance with such regulations as the Office may
9 prescribe.

10 “(c) Except as provided in subsection (d) of this
11 section, the amount of the survivor annuity payable under
12 subsection (b) of this section to a deceased former
13 participant's surviving spouse--

14 “(1) for any month the surviving spouse is or
15 becomes eligible, by reason of the death of the former
16 participant and based on the service of the former
17 participant, to receive benefits pursuant to subsection
18 (e), (f), or (g) of section 202 of the Social Security
19 Act (or would be or would become eligible to receive such
20 benefits if the participant had been fully or currently
21 insured for the purposes of such subsection) shall be
22 equal to--

23 “(A) in the case of a surviving spouse who has
24 not received a survivor annuity computed pursuant to
25 paragraph (2) of this subsection (based on the

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1 service of the deceased former participant), 50
2 percent of the amount of the deceased former
3 participant's annuity computed pursuant to sections
4 8413 and 8414 of this title without regard to section
5 8415 of this title and adjusted as provided in
6 section 8462 of this title; and

7 "(B) in the case of a surviving spouse who has
8 received a survivor annuity computed pursuant to
9 paragraph (2) of this subsection (based on the
10 service of the deceased former participant), 50
11 percent of the amount of such survivor annuity the
12 surviving spouse was entitled to receive for the
13 latest month such paragraph applied to the survivor
14 annuity; and

15 "(2) for any full month the surviving spouse is not
16 eligible to receive benefits pursuant to subsection (e),
17 (f), or (g) of section 202 of the Social Security Act
18 (and would not be eligible to receive such benefits if
19 the participant had been fully or currently insured for
20 the purposes of such subsection) shall be equal to the
21 amount of the deceased former participant's annuity
22 computed pursuant to sections 8413, 8414, and 8415 of
23 this title.

24 "(d) The amount of the survivor annuity payable under
25 this section to the surviving spouse of a deceased former

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1 participant shall be equal to the excess, if any, of the
2 amount of the survivor annuity which would be payable to the
3 surviving spouse under this section without regard to this
4 subsection over the total amount of any survivor annuity or
5 survivor annuities payable pursuant to section 8434 of this
6 title to an eligible former spouse or eligible former spouses
7 of the deceased former participant.

8 ``§ 8433. Survivor benefits under the thrift savings plan

9 `` (a) Except as provided in section 8425(a) of this title
10 or subsection (c) of this section, the amount in the account
11 established and maintained for a deceased participant or
12 deceased former participant pursuant to section 8428(a) of
13 this title, determined on the date of distribution under this
14 section, shall, subject to the limits of the entitlement set
15 out in section 8422(a)(1) of this title (without regard to
16 section 8422(a)(2) of this title), be paid to--

17 `` (1) the surviving spouse of the deceased
18 participant pursuant to the method elected under
19 subsection (b) of this section; or

20 `` (2) if there is no surviving spouse, to the estate
21 of the deceased participant.

22 `` (b) A surviving spouse entitled to payment of benefits
23 under subsection (a) of this section may elect--

24 `` (1) to receive an annuity from the Fund payable
25 monthly for life;

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1 “(2) to transfer the amount referred to in such
2 subsection to an individual retirement account (within
3 the meaning of the Internal Revenue Code of 1954) of the
4 surviving spouse; or

5 “(3) to withdraw such amount in one payment.

6 “(c)(1) Any amount required for the payment of a
7 survivor annuity with respect to a deceased participant or
8 deceased former participant out of the Thrift Savings Fund
9 pursuant to section 8434 of this title shall be deducted and
10 withheld from a distribution made with respect to the
11 deceased participant or deceased former participant pursuant
12 to subsection (a) of this section. The amount deducted and
13 withheld shall be maintained in the Thrift Savings Fund until
14 expended in payment of the survivor annuity or until the
15 survivor annuity terminates. Any sums remaining from the
16 amount deducted and withheld after the termination of the
17 survivor annuity, plus net earnings realized from investment
18 of such amount, shall be distributed as provided in
19 subsection (a) of this section.

20 “§ 8434. Survivor benefits for eligible former spouses:
21 entitlement; amount

22 “(a) Subject to subsections (b) through (f) of this
23 section, an eligible former spouse of a deceased participant
24 or deceased former participant is entitled to a survivor
25 annuity under this section, if and to the extent that an

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1 election under section 8435 of this title or the terms of any
2 court decree dissolving or annulling the marriage of the
3 participant or former participant and the eligible former
4 spouse or any court order or court-approved property
5 settlement agreement incident to such decree expressly
6 provides for such survivor annuity.

7 “(b)(1) The amount of the survivor annuity payable from
8 the Fund to an eligible former spouse of a deceased
9 participant or deceased former participant under this section
10 may not exceed the excess, if any, of--

11 “(A) the amount applicable in the case of such
12 eligible former spouse, as determined under paragraph (2)
13 of this subsection, over

14 “(B) the amount of any survivor annuity payable from
15 the Fund under this section to any other eligible former
16 spouse of the participant or former participant based on
17 an election previously made under section 8435 of this
18 title or a court decree or order previously issued.

19 “(2)(A) For the purposes of paragraph (1)(A) of this
20 subsection, the amount applicable in the case of an eligible
21 former spouse of a deceased participant or deceased former
22 participant is the amount which would be applicable--

23 “(i) under section 8432(c) of this title-(without
24 regard to section 8432(d) of this title) in the case of a
25 surviving spouse of the deceased, if the deceased was a

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1 former participant who died after retirement;

2 "(ii) under section 8431(a) of this title (without
3 regard to section 8431(c) of this title) in the case of a
4 surviving spouse of the deceased, if the deceased was a
5 participant described in such section 8431(a); or

6 "(iii) under section 8431(b) of this title (without
7 regard to section 8431(c) of this title) in the case of a
8 surviving spouse of the deceased, if the deceased was a
9 participant described in such section 8431(b).

10 "(c)(1) The total amount of all survivor annuities
11 payable from the Thrift Savings Fund to eligible former
12 spouses of a deceased participant or deceased former
13 participant pursuant to this section may not exceed the
14 amount of the survivor annuities that would be payable to the
15 former spouses out of 100 percent of the balance in the
16 account of the deceased participant or deceased former
17 participant, plus anticipated net earnings from investments
18 allocable to such account, determined in accordance with
19 generally accepted actuarial practices and standards.

20 "(2) If more than one eligible former spouse is entitled
21 to a survivor annuity pursuant to this section, the amount of
22 each such survivor annuity shall be limited appropriately to
23 carry out paragraph (1) of this subsection on a first-come,
24 first-served basis determined by reference to the date an
25 election is properly made pursuant to section 8435 of this

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1 title or the date the Board properly receives a copy of the
2 court decree, order, or court-approved agreement applicable
3 to the entitlement.

4 “(d) The commencement and termination of a survivor
5 annuity payable under this section to an eligible former
6 spouse of a deceased participant or deceased former
7 participant shall be governed by the terms of the applicable
8 court order, decree, or agreement or an election, as the case
9 may be, except that any such survivor annuity--

10 “(1) shall not commence before--

11 “(A) the day after the participant or former
12 participant dies, or

13 “(B) the first day of the second month beginning
14 after the date on which the Office receives written
15 notice of the court order, decree, or agreement or
16 the election, as the case may be, together with such
17 additional information or documentation as the Office
18 may prescribe,

19 whichever is later, and

20 “(2) shall terminate not later than the last day of
21 the month before the former spouse remarries before
22 becoming 55 years of age or dies.

23 “(e) For the purposes of this section, a modification in
24 a court decree, order, or agreement or an election referred
25 to in subsection (a) of this section shall not be effective--

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1 “(1) if such modification is made after the
2 retirement of the participant concerned, and
3 “(2) to the extent that such modification involves a
4 survivor annuity under this section.
5 “(f) For the purposes of this section, a court decree,
6 order, or agreement or an election referred to in subsection
7 (a) of this section shall not be effective, in the case of a
8 former spouse, to the extent that it is inconsistent with any
9 joint waiver previously executed with respect to such former
10 spouse under section 8432(b)(2) of this title.
11 “(g) Any payment under this section to a person bars
12 recovery by any other person.
13 “§ 8435. Survivor benefits for former spouses: elections,
14 deposits and collections, and administrative
15 provisions
16 “(a)(1) If a former participant has an eligible former
17 spouse on the date that payment of an annuity to the former
18 participant under subchapter II of this chapter commences,
19 the former participant may elect, under procedures prescribed
20 by the Office, to provide a survivor annuity for such former
21 spouse under section 8434 of this title. An election under
22 this paragraph shall be made on the date that payment of an
23 annuity under subchapter II of this chapter to the former
24 participant commences or, if later, within 2 years after the
25 date on which the marriage of the former spouse to the former

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1 participant is dissolved or annulled. The election shall
2 specify the amount of the survivor annuity to be provided
3 under this paragraph.

4 “(2) A former participant making an election under
5 paragraph (1) of this subsection during the 2-year period
6 referred to in such paragraph shall deposit in the Fund,
7 within such period, an amount determined by the Office, as
8 nearly as may be administratively feasible, to reflect the
9 amount by which the annuity of such former participant would
10 have been reduced if the election had been continuously in
11 effect since the date the annuity commenced, plus interest.

12 “(3) An election under paragraph (1) of this
13 subsection--

14 “(A) shall not be effective to the extent that it
15 conflicts with--

16 “(1) any court decree or order referred to in
17 subsection (a) of section 8434 of this title, which
18 was issued before the date of such election; or

19 “(11) any agreement referred to in such
20 subsection which was entered into before such date;

21 “(B) shall not be effective to the extent that the
22 amount of the annuity specified in the election exceeds--

23 “(1) in the case of a survivor annuity payable
24 from the Fund, the amount determined pursuant to
25 section 8434(b) of this title; or

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1 “(11) in the case of a survivor annuity payable
2 from the Thrift Savings Fund, the amount determined
3 pursuant to section 8434(c) of this title; and

4 “(C) except as provided in subsection (d) of this
5 section, shall not be effective, in the case of a former
6 participant who is married on the date of the election,
7 unless the election is made with the written consent of
8 the former participant's spouse.

9 “(b) A former participant who has elected to provide a
10 survivor annuity for an eligible former spouse pursuant to
11 subsection (a) of this section may make an election to
12 provide or increase a survivor annuity for any other eligible
13 former spouse of the former participant within the same
14 period that, and subject to the same conditions under which,
15 an election could be made under subsection (c) of this
16 section for a spouse of the former participant (subject to
17 the provisions of subsection (a)(3)(C) of this section
18 relating to the consent of a spouse, if the former
19 participant is then married). The opportunity to make an
20 election under the preceding sentence is in addition to any
21 opportunity otherwise provided under this subsection.

22 “(c) If the entitlement of an eligible former spouse of
23 a former participant to a survivor annuity under this
24 subchapter is terminated or reduced by reason of the
25 remarriage or death of the former spouse, the former

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1 participant may elect, in a signed writing received by the
2 Office within 2 years after the former spouse's date of death
3 or remarriage, to provide a survivor annuity or to increase
4 the survivor annuity for the spouse of the former
5 participant.

6 “(d)(1) If a former participant is married on the date
7 that payment of an annuity under subchapter II of this
8 chapter to the former participant commences, the marriage
9 terminates, and the former participant remarries, the former
10 participant may irrevocably elect during the later marriage
11 to provide an annuity for such former participant's spouse.
12 An election under this subparagraph shall be made in a signed
13 writing received by the Office within 2 years after the date
14 of the remarriage.

15 “(2) An election under paragraph (1) of this subsection
16 shall be effective the first day of the second month
17 beginning after the election is received by the Office, but
18 not earlier than 9 months after the date of the remarriage
19 referred to in such paragraph.

20 “(3) A former participant making an election under
21 paragraph (1) of this subsection shall, within 2 years after
22 the date of the remarriage referred to in such paragraph,
23 deposit in the Fund an amount determined by the Office, as
24 nearly as may be administratively feasible, to reflect the
25 amount by which the annuity of such former participant would

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1 have been reduced if the election had been in effect since--

2 “(A) the date that payment of an annuity to the
3 former participant under subchapter II of this chapter
4 commenced, or

5 “(B) if the annuity had previously been reduced to
6 provide for a survivor annuity under section 8432 of this
7 title, the date the previous reduction in such former
8 participant's annuity was terminated under section
9 8415(b) of this title,

10 plus interest.

11 “(4) Notwithstanding any other provision of this
12 paragraph, an election under this subsection may not be made
13 for the purpose of providing a survivor annuity to a spouse
14 of a former participant by remarriage if--

15 “(A) such spouse was married to the former
16 participant on the date that payment of an annuity to the
17 former participant under subchapter II of this chapter
18 commenced; and

19 “(B) all rights to survivor benefits for such spouse
20 under this subchapter based on marriage to such former
21 participant were then waived under section 8432(b)(2) of
22 this title.

23 “(e) For the purposes of subsection (a)(2) or (d)(3) of
24 this section, the annual rate of interest for each year
25 during which an annuity would have been reduced if the

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1 election referred to in such subsection had been in effect on
2 and after the applicable date referred to in such subsection
3 shall be 6 percent.

4 “(f) If a former participant does not make a deposit
5 required by subsection (a)(2) or (d)(3) of this section, the
6 Office shall collect such amount by offset against the former
7 participant's annuity payable from the Fund, up to a maximum
8 of 25 percent of the net annuity otherwise payable to the
9 former participant. The former participant is deemed to
10 consent to such offset.

11 “(g) The Office may extend the time limit for making a
12 deposit required by subsection (a)(2) or (d)(3) of this
13 section in any case for good cause shown.

14 “(h) Any requirement that the spouse of a participant or
15 former participant waive a right to a survivor annuity under
16 this subchapter as a condition for an election authorized by
17 this section shall not apply if the participant or former
18 participant establishes to the satisfaction of the Office
19 that--

20 “(1) the spouse's whereabouts cannot reasonably be
21 determined; or

22 “(2) due to exceptional circumstances, it would be
23 inappropriate to require the participant or former
24 participant to obtain the spouse's consent.

25 “§ 8436. Termination of entitlement

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1 “(a) An election of a former participant to provide a
2 survivor annuity to the former participant's spouse under
3 this subchapter terminates on the first day of the first
4 month beginning after--

5 “(1) the date of the death of the spouse; or

6 “(2) the date of the dissolution of the spouse's
7 marriage to the former participant.

8 “(b) The entitlement of an eligible former spouse of a
9 former participant to a survivor annuity under section
10 8434(a) of this title terminates on the first day of the
11 first month beginning after--

12 “(1) the date of the death of the former spouse; or

13 “(2) the date the former spouse remarries before
14 becoming 55 years of age.

15 “SUBCHAPTER V--DISABILITY BENEFITS

16 “§ 8441. Definitions

17 “For the purposes of this subchapter--

18 “(1) the term 'disability benefits under the Social
19 Security Act' means disability insurance benefits payable
20 under section 223 of the Social Security Act or benefits
21 payable under section 202 of such Act by reason of being
22 under a disability;

23 “(2) the term 'disabled', when used with respect to
24 an eligible participant, means that the eligible
25 participant--

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1 “(A) is under a disability within the meaning of
2 section 223 of the Social Security Act; or

3 “(B)(i) is unable, because of disease or injury,
4 to render useful and efficient service in the
5 participant's position; and

6 “(ii) after the date which is 1 year after the
7 date the participant became disabled within the
8 meaning of clause (i) of this subparagraph (except in
9 the case of a Member) is not qualified for
10 reassignment, under procedures prescribed by the
11 Office, to a vacant position--

12 “(I) which is in the participant's employing
13 agency and is in the participant's commuting
14 area;

15 “(II) which is in a grade or pay level not
16 lower than two grades or pay levels below the
17 grade or pay level of the participant's position;
18 and

19 “(III) in which the participant would be
20 able to render useful and efficient service;

21 “(3) the term 'eligible participant' means a
22 participant whose service exceeds 18 months and--

23 “(A) who--

24 “(i) has applied for disability benefits
25 under the Social Security Act and has been

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determined to be under a disability for the
purposes of title II of the Social Security Act;
or

“(11) in the case of a participant who is
not entitled to disability benefits under the
Social Security Act by reason of insufficient
quarters of coverage, has been determined by the
insuror to be disabled within the meaning of
paragraph (2)(A) of this section on the basis of
a report of examination required by section 8445
of this title; or

“(B) who has been determined by the insuror to
be disabled within the meaning of paragraph (2)(B) of
this section on the basis of a report of examination
required by section 8445 of this title;

“(4) the term ‘final pay’, when used with respect to
a disabled eligible participant, means the participant’s
annual rate of pay on the date of onset of the disability
increased, each time after the date of onset of the
eligible participant’s disability that the rates of pay
under the General Schedule are increased pursuant to
section 5305 of this title, by the same overall average
percent of the increase in such rates, and compounded;

“(5) the term ‘insuror’ means the disability
insurance company administering the provisions of this

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1 subchapter under a contract awarded pursuant to section
2 8450 of this title;

3 '(6) the term 'onset average pay', when used with
4 respect to a disabled eligible participant, means the
5 participant's average pay on the date of onset of the
6 disability increased, each time after the date of onset
7 of the eligible participant's disability that the rates
8 of pay under the General Schedule are increased pursuant
9 to section 5305 of this title, by the same overall
10 average percent of the increase in such rates, and
11 compounded; and

12 '(7) the term 'projected service', when used with
13 respect to a disabled eligible participant, means the sum
14 of the number of years of service performed by the
15 participant before the onset of the disability and the
16 number of years, if any, after the date of the onset of
17 the disability and before the date the participant
18 becomes--

19 '(A) in the case of an eligible participant
20 referred to in subparagraph (3)(A) of this section,
21 62 years of age; or

22 '(B) in the case of an eligible participant
23 referred to in subparagraph (3)(B) of this section,
24 55 years of age.

25 'S 8442. Entitlement

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1 “(a) A person who is an eligible participant, is
2 disabled, and has used all sick leave accrued and accumulated
3 under subchapter I of chapter 63 of this title or any other
4 similar applicable provision of law relating to employment by
5 the Federal Government is entitled to receive disability
6 benefits under this subchapter while--

7 “(1) In the case of a person who is disabled within
8 the meaning of section 8441(2)(A) of this title, such
9 person is under 62 years of age; and

10 “(2) In the case of a person who is disabled within
11 the meaning of section 8441(2)(B) of this title, such
12 person is under 55 years of age.

13 When the person exceeds the maximum age at which the person
14 is qualified for benefits under the first sentence, the
15 person shall be treated as an eligible participant for the
16 purposes of entitlement to benefits under subsection (b) of
17 this section.

18 “(b)(1) An eligible participant who--

19 “(A)(i) is disabled within the meaning of section
20 8441(2)(A) of this title and is not less than 62 years of
21 age, or

22 “(ii) is disabled within the meaning of section
23 8441(2)(B) of this title and is not less than 55 years of
24 age, and

25 “(B) has 5 or more years of service and projected

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1 service,
2 shall be entitled to an annuity as provided in subchapter II
3 of this title.

4 "(2) For the purposes of applying the provisions of
5 subchapter II of this title in the case of an eligible
6 participant pursuant to paragraph (1) of this subsection--

7 "(A) the eligible participant shall be deemed to
8 have separated from employment by the Government on the
9 day before the date the participant becomes entitled to
10 an annuity pursuant to paragraph (1) of this subsection;

11 "(B) the service of the participant shall include
12 the participant's projected service; and

13 "(C) the participant's average pay shall be equal to
14 the participant's onset average pay.

15 "§ 8443. Computation of benefits

16 "(a) The annual rate of the disability benefits payable
17 under section 8442(a) of this title to an eligible
18 participant referred to in section 8441(3)(A) of this title
19 shall be equal to the excess of 60 percent of the
20 participant's final pay over the amount, if any, payable to
21 the participant as disability benefits under the Social
22 Security Act.

23 "(b) The annual rate of the disability benefits payable
24 under section 8442(a) of this title to an eligible
25 participant referred to in section 8441(3)(B) of this title--

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1 “(1) during the period ending 1 year after the date
2 of onset of the disability, shall be equal to 60 percent
3 of the participant's final pay; and

4 “(2) after such period, shall be equal to 40 percent
5 of the participant's final pay while the participant is
6 under 55 years of age.

7 “§ 8444. Application

8 “(a) Except as provided in subsection (b) of this
9 section, a claim of a participant for disability benefits
10 under this subchapter may be allowed only if the participant
11 files with the insurer an application for the disability
12 benefits within 1 year after the date the participant
13 separates from employment by the Federal Government.

14 “(b) The insurer may waive the time limitation set out
15 in subsection (a) of this section in the case of a
16 participant if--

17 “(1) the insurer determines that the participant was
18 mentally incompetent on the date the participant
19 separated from employment by the Federal Government or
20 within 1 year after such date; and

21 “(2) the application for disability benefits is
22 filed within 1 year after the date the participant is
23 restored to mental competency or the date a fiduciary is
24 appointed to manage the financial affairs of the
25 participant, whichever date is earlier.

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1 ``§ 8445. Medical examinations

2 `` (a) A participant applying for disability benefits
3 under section 8442(a) of this title shall be examined by a
4 physician under the direction of the insuror at such times as
5 the insuror may require.

6 `` (b) A physician examining a participant under
7 subsection (a) of this section shall report to the insuror
8 the diagnosis and prognosis with respect to such participant.

9 `` (c) Notwithstanding any other provision of this
10 subchapter, any participant who fails to submit to the
11 examination required under subsection (a) of this section
12 shall not be entitled to disability benefits.

13 ``§ 8446. Offers of alternative employment

14 `` (a)(1) Any participant who is applying for disability
15 benefits under this subchapter, is examined pursuant to
16 section 8445 of this title, and is determined on the basis of
17 the examination to be able to perform the work required in
18 any position described in paragraph (2) of this subsection
19 shall be considered for appointment to such position.

20 `` (2) A position referred to in paragraph (1) of this
21 subsection is a position which is in the agency of the
22 Federal Government employing the participant referred to in
23 such paragraph, is a position for which the participant is
24 qualified, is not lower than 2 grades or pay levels below the
25 participant's grade or pay level, and is within the

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1 participant's commuting area.

2 “(b) Any participant who is appointed to or offered a
3 position under subsection (a) of this section is entitled to
4 appeal to the Merit Systems Protection Board under section
5 7701 of this title any determination that the participant is
6 able to perform the work required of such position.

7 “§ 8447. Recovery or restoration of earning capacity

8 “(a)(1) If the insurer determines that an individual who
9 is receiving disability benefits under this subchapter has
10 recovered from the disability before becoming 62 years of age
11 (in the case of an individual who is disabled within the
12 meaning of section 8441(2)(A) of this title) or 55 years of
13 age (in the case of an individual who is disabled within the
14 meaning of section 8441(2)(B) of this title), payment of the
15 benefits shall terminate on the date the individual is
16 reemployed by the Government or 1 year after the date of the
17 medical examination on which the insurer's determination is
18 based, whichever date is earlier.

19 “(2) Payment of disability benefits to any individual
20 under this chapter that has been terminated pursuant to
21 paragraph (1) of this subsection shall be resumed if there is
22 a recurrence of the individual's disability, as determined by
23 the insurer after a medical examination of the individual,
24 and the individual is under 62 years of age (in the case of
25 an individual who is disabled within the meaning of section

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1 8441(2)(A) of this title) or under 55 years of age (in the
2 case of an individual who is disabled within the meaning of
3 section 8441(2)(B) of this title). The resumption of payment
4 of disability benefits shall be effective on the date such
5 medical examination was completed. The annual rate of the
6 disability benefits payable to the individual upon resumption
7 of payment shall be the annual rate that would have been
8 payable to the individual if payment of disability benefits
9 had not been terminated pursuant to paragraph (1) of this
10 subsection.

11 "(b)(1) If the insurer determines that an individual who
12 is receiving disability benefits under this subchapter has
13 received, during the latest calendar year, income from wages
14 or self-employment or both totalling the amount equal to 60
15 percent of the rate of pay payable for the individual's
16 position of employment by the Government on the date of the
17 onset of the individual's disability (increased as if such
18 rate of pay had been increased, by the same percent as the
19 overall percent increase in the rates of pay under the
20 General Schedule, each time such rates had been increased
21 pursuant to section 5305 of this title since such date),
22 payment of the benefits shall terminate on the date 60 days
23 after the end of such calendar year.

24 "(2)(A) If payment of disability benefits under this
25 subchapter has been terminated pursuant to paragraph (1) of

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1 this subsection in the case of an individual who is not
2 reemployed in a position subject to this chapter, who
3 continues to be disabled, who is under 62 years of age (in
4 the case of an individual who is disabled within the meaning
5 of section 8441(2)(A) of this title) or under 55 years of age
6 (in the case of an individual who is disabled within the
7 meaning of section 8441(2)(B) of this title), and who
8 receives in the calendar year in which the disability
9 benefits were terminated, or any calendar year after such
10 year, income from wages or self-employment or both totalling
11 less than the amount computed in such case as provided in
12 such paragraph, payment of disability benefits to the
13 individual under this subchapter shall be resumed.

14 “(B) A resumption of payment of disability benefits to
15 an individual under subparagraph (A) of this paragraph shall
16 be effective the first day of the first year beginning after
17 the year in which the individual received the income referred
18 to in such subparagraph.

19 “(C) The annual rate of the disability benefits payable
20 to an individual upon resumption of payment of disability
21 benefits under subparagraph (A) of this paragraph shall be
22 the annual rate that would have been payable to the
23 individual if payment had not been terminated pursuant to
24 paragraph (1) of this subsection.

25 “§ 8448. Relationship to workers' compensation

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1 “(a)(1) An individual is not entitled to receive
2 disability benefits under this subchapter and compensation
3 for injury or disability to the individual under subchapter I
4 of chapter 81 of this title covering the same period of time.

5 “(2) Paragraph (1) of this subsection does not bar the
6 right of a claimant to the greater benefit conferred by
7 either subchapter referred to in such paragraph for any part
8 of the period referred to in such paragraph.

9 “(3) Paragraph (1) of this subsection and the provisions
10 of subchapter I of chapter 81 of this title do not deny an
11 individual an annuity accruing to the individual under this
12 chapter on account of service performed by the individual and
13 do not deny any concurrent benefit to the individual under
14 subchapter I of chapter 81 of this title on account of the
15 death of another individual.

16 “(b)(1) Subject to paragraph (2) of this subsection, an
17 individual's receipt of a lump-sum payment for compensation
18 under section 8135 of this title shall not affect the
19 individual's entitlement to disability benefits under this
20 subchapter.

21 “(2) If disability benefits are payable under this
22 subchapter by reason of the same disability for which a lump-
23 sum payment of compensation referred to in paragraph (1) of
24 this subsection has been made, so much of the compensation as
25 has been paid for a period extended beyond the date payment

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1 of the disability benefits commences, as determined by the
2 Department of Labor, shall be refunded to that Department for
3 credit to the Employees' Compensation Fund. Before the
4 individual may receive the disability benefits, the
5 individual shall--

6 "(A) refund to the Department of Labor the amount
7 representing the commuted compensation payments for the
8 extended period; or

9 "(B) authorize the deduction of the amount from the
10 disability benefits.

11 Deductions from the disability benefits may be made from
12 accrued or accruing payments. The amounts deducted and
13 withheld from disability benefits shall be transmitted to the
14 Department of Labor for reimbursement to the Employees'
15 Compensation Fund. When the Department of Labor finds that
16 the financial circumstances of an individual entitled to
17 disability benefits under this subchapter warrant deferred
18 refunding under this paragraph, deductions from the
19 disability benefits may be prorated against and paid from
20 accruing payments in such manner as the Department
21 determines.

22 "\$ 8449. Reserve components technicians

23 "(a) For the purposes of this section, the term
24 'technician' means an individual who is employed in a
25 position in the National Guard under section 709(a) of title

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1 32 or in a similar position in another reserve component of
2 the Armed Forces of the United States referred to in section
3 261(a) of title 10 and who, as a condition of the employment,
4 is required to be a member of the National Guard or other
5 reserve component and to hold a specified military grade.

6 "(b)(1) Except as provided in paragraph (2) of this
7 subsection, a participant shall be entitled to disability
8 benefits under this subchapter in the same manner as an
9 eligible participant described in section 8441(3)(B) of this
10 title if the participant--

11 "(A) is separated from employment as a technician by
12 reason of a disability that disqualifies the individual
13 from membership in the National Guard or other reserve
14 component, as the case may be, or from holding the
15 military grade required for such employment:

16 "(B) is not considered disabled;

17 "(C) is not appointed to another position in the
18 Government (under subsection (c) of this section or
19 otherwise); and

20 "(D) has not declined an offer to a position in the
21 Government under subsection (c) of this section.

22 "(2) Payment of disability benefits to an individual
23 under this section terminates--

24 "(A) on the date the individual is appointed to a
25 position in the Government (under subsection (c) of this

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1 section or otherwise);

2 "(B) on the date the individual declines an offer of
3 appointment to a position in the Government pursuant to
4 subsection (c) of this section; or

5 "(C) as provided in section 8447(a) or 8447(b) of
6 this title.

7 "(c) Any individual applying for or receiving disability
8 benefits pursuant to this section shall, in accordance with
9 regulations prescribed by the Office, be considered by any
10 agency of the Government before any vacant position in the
11 agency is filled if--

12 "(1) the position is located within the commuting
13 area of the individual's former position;

14 "(2) the individual is qualified to serve in the
15 vacant position; and

16 "(3) the position is at the same grade or equivalent
17 level as the position from which the individual was
18 separated.

19 "§ 8450. Disability insurance and administration

20 "(a) For the purpose of this section, the term 'State'
21 means a State of the United States, the District of Columbia,
22 the Commonwealth of Puerto Rico, and a territory or
23 possession of the United States.

24 "(b) The Office shall purchase a disability insurance
25 policy from a disability insurance company to provide the

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1 benefits specified in section 8442(a) of this title and shall
2 enter into a contract with such company to administer the
3 provisions of this subchapter which the Office is not
4 specifically required by this chapter to administer. The
5 company shall meet the following requirements:

6 “(1) It must be licensed to transact disability
7 insurance under the laws of a State.

8 “(2) It must have in effect, on the most recent
9 December 31 for which information is available to the
10 Office, an amount of employee group disability insurance
11 equal to at least 1 percent of the total amount of
12 employee group disability insurance in the United States
13 in all disability insurance companies.

14 “(c) A company awarded a contract under subsection (b)
15 of this section shall establish an administrative office
16 under a name approved by the Office.

17 “(d) The Office may award a contract under subsection
18 (b) of this section for a period not exceeding 5 years and
19 may include in the contract a provision authorizing extension
20 of the contract for 1 year at a time.

21 “(e) The Director may include in the contracts such
22 terms and conditions as he considers appropriate to protect
23 the interests of participants and the United States.

24 “(f) All records established or maintained by the
25 insurer in the administration of this subchapter shall be the

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1 property of the United States. The insurer shall deliver such
2 records to the Office whenever requested by the Office.

3 “(g) The provisions of any contract under this
4 subchapter which relate to the nature or extent of coverage
5 or benefits (including payments with respect to benefits)
6 shall supersede and preempt any law of any State or political
7 subdivision thereof, or any regulation issued thereunder,
8 which relates to group disability insurance to the extent
9 that the law or regulation is inconsistent with the
10 contractual provisions.

11 “§ 8451. Reinsurance

12 “(a) The Office of Personnel Management shall arrange
13 with a company issuing a policy under this chapter for the
14 reinsurance, under conditions approved by the Office, of
15 portions of the total amount of insurance under the policy
16 determined under this section, with other disability
17 insurance companies which elect to participate in the
18 reinsurance.

19 “(b) The Office shall determine for and in advance of a
20 policy year which companies are eligible to participate as
21 reinsurers and the amount of insurance under a policy which
22 is to be allocated to the issuing company and to reinsurers.
23 The Office shall make this determination at least every 3
24 years and when a participating company withdraws.

25 “(c) The Office shall establish a formula under which

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1 the amount of insurance retained by an issuing company after
2 ceding reinsurance, and the amount of reinsurance ceded to
3 each reinsurer, is in proportion to the total amount of each
4 company's group disability insurance, excluding insurance
5 purchased under this subchapter, in force in the United
6 States on the determination date, which is the most recent
7 December 31 for which information is available to the Office.
8 In determining the proportions, the portion of a company's
9 group disability insurance in force on the determination date
10 in excess of \$100,000,000 shall be reduced by--

11 “(1) 25 percent of the first \$100,000,000 of the
12 excess;

13 “(2) 50 percent of the second \$100,000,000 of the
14 excess;

15 “(3) 75 percent of the third \$100,000,000 of the
16 excess; and

17 “(4) 95 percent of the remaining excess.

18 However, the amount retained by or ceded to a company may not
19 exceed 25 percent of the amount of the company's total
20 disability insurance in force in the United States on the
21 determination date.

22 “(d) A fraternal benefit association which--

23 “(1) is licensed to transact disability insurance
24 under the laws of a State, and

25 “(2) is engaged in issuing insurance certificates on

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1 the risk of disability among employees of the United
2 States exclusively,
3 is eligible to act as a reinsuring company and may be
4 allocated an amount of reinsurance equal to 25 percent of its
5 total disability insurance in force on employees of the
6 United States on the determination date named by subsection
7 (c) of this section.

8 "(e) The Office may modify the computations under this
9 section as necessary to carry out the intent of this section.

10 "\$ 8452. Annual accounting; special contingency reserve

11 "(a) A policy purchased under this chapter shall provide
12 for an accounting to the Office of Personnel Management not
13 later than 90 days after the end of each policy year. The
14 accounting shall set forth, in a form approved by the
15 Office--

16 "(1) the amounts of premiums actually accrued under
17 the policy from its date of issue to the end of the
18 policy year;

19 "(2) the total of all claim charges incurred for
20 that period; and

21 "(3) the amounts of the insurers' expense and risk
22 charges for that period.

23 The amount equal to the excess of the total of the amounts
24 described in paragraph (1) of this section over the sum of
25 the amounts described in paragraphs (2) and (3) of this

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1 section shall be held by the Federal Government as a special
2 contingency reserve to be used by the company issuing the
3 policy only for charges under the policy.

4 "(b) The company referred to in subsection (a) of this
5 section may make deposits for the purpose of such subsection
6 in equal monthly installments over a period of not more than
7 2 years.

8 "§ 8453. Employees' Disability Insurance Fund

9 "(a) There is established in the Treasury of the United
10 States a fund to be known as the "Employees' Disability
11 Insurance Fund".

12 "(b) The employing agency shall make periodic payments
13 to the Employees' Disability Insurance Fund in the amount of
14 the portion of the premium payable for the applicable period
15 (under the policy purchased under section 8450(b) of this
16 title) which is attributable to participants paid by the
17 employing agency, as determined by the Office and the
18 insuror. The employing agency shall pay the amounts required
19 by this subsection from the appropriation or fund available
20 for payment of the basic pay or salaries of employees of the
21 agency. In the case of a participant in the legislative
22 branch who is paid by the Clerk of the House of
23 Representatives, the premium shall be paid from the
24 contingent fund of the House of Representatives.

25 "(c) Sums in the Employees' Disability Insurance Fund

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1 shall be available without fiscal year limitation for the
2 payment of premiums under an insurance policy purchased under
3 section 8450(b) of this title.

4 “(d) The Secretary of the Treasury may invest and
5 reinvest any of the money in the Employees’ Disability
6 Insurance Fund in interest-bearing obligations of the United
7 States, and may sell these obligations for the purposes of
8 such fund. The interest on and the proceeds from the sale of
9 these obligations, and the income derived from the dividend
10 or premium rate adjustments from insurers, become a part of
11 such fund.

12 “(e)(1) No tax fee, or other monetary payment may be
13 imposed or collected by any State or by any political
14 subdivision or other governmental authority thereof, on, or
15 with respect to, any premium paid under an insurance policy
16 purchased under this subchapter.

17 “(2) Paragraph (1) of this subsection shall not be
18 construed to exempt any company issuing a policy of insurance
19 under this subchapter from the imposition, payment, or
20 collection of a tax, fee, or other monetary payment on the
21 net income or profit accruing to or realized by that company
22 from business conducted under this subchapter, if that tax,
23 fee, or payment is applicable to a broad range of business
24 activity.

25 “SUBCHAPTER VI--GENERAL AND ADMINISTRATIVE PROVISIONS

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1 ``S 8461. Authority of the Office of Personnel Management

2 ``(a) The Office shall pay all benefits that are payable
3 under subchapter II of this chapter from the Fund.

4 ``(b) The Office shall administer all provisions of this
5 chapter not specifically required to be administered by the
6 Board or any other agency.

7 ``(c) The Office may make regulations to carry out the
8 provisions of this chapter administered by the Office.

9 ``S 8462. Cost-of-living adjustment in basic plan annuities,
10 survivor annuities, and disability benefits

11 ``(a) For the purpose of this section--

12 ``(1) the term 'base quarter', when used with respect
13 to a year, means the calendar quarter ending on September
14 30, of such year; and

15 ``(2) the price index for a base quarter is the
16 arithmetical mean of such index for the 3 months
17 comprising such quarter.

18 ``(b)(1) Except as provided in subsection (c) or (e) of
19 this section, effective December 1 of each year in which the
20 price index for the base quarter of such year exceeds the
21 price index for the base quarter of the preceding year, each
22 annuity which is payable from the Fund under subchapter II of
23 this chapter or section 8431 or 8432 of this title and
24 commences not later than such December 1 shall be increased
25 by the applicable percent determined under paragraph (2) of

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1 this subsection.

2 “(2) If the price index for the base quarter of any year
3 in which an annuity is to be increased under paragraph (1) of
4 this subsection exceeds the price index for the base quarter
5 of the preceding year--

6 “(A) by not more than 4 percent, the percent by
7 which the annuity is increased in such year under such
8 paragraph shall be one-half of such percent increase in
9 the price index;

10 “(B) by more than 4 percent but not more than 8
11 percent, the percent by which the annuity is increased in
12 such year under such paragraph shall be three-fourths of
13 such percent increase in the price index;

14 “(C) by more than 8 percent, the percent by which
15 the annuity is increased in such year under such
16 paragraph shall be the excess of such percent increase in
17 the price index over 2 percent.

18 “(c)(1) The first increase (if any) made under
19 subsection (b) of this section to an annuity payable to a
20 participant who retires, to the surviving spouse of a
21 deceased participant, or to the surviving spouse of a
22 deceased annuitant whose annuity has never been increased
23 under this subsection or subsection (b) of this section shall
24 be equal to the product (adjusted to the nearest one-tenth of
25 1 percent) of--

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1 “(A) one-twelfth of the applicable percent of the
2 adjustment computed under subsection (b) of this section,
3 multiplied by

4 “(B)(1) the number of months (counting any portion
5 of a month as a month) for which the annuity was payable
6 before the effective date of the increase, or

7 “(11) in the case of a survivor annuity payable to a
8 surviving spouse of a deceased annuitant whose annuity
9 has never been so increased, the number of months
10 (counting any portion of a month as a month) since the
11 annuity was first payable to the deceased annuitant.

12 “(2) Effective on its commencing date, an annuity
13 referred to in subsection (b) of this section and payable to
14 an annuitant's surviving spouse shall be increased by the
15 total percent by which the deceased annuitant's annuity had
16 been increased under this section during the period beginning
17 on the date the deceased annuitant's annuity commenced and
18 ending on the date of the deceased annuitant's death.

19 “(d) The monthly installment of an annuity payable after
20 adjustment under this section shall be rounded to the next
21 lowest dollar, but the increase in the monthly installment
22 under this section shall be at least one dollar.

23 “§ 8463. Rate of benefits

24 “Each annuity and disability benefit is stated as an
25 annual amount, one-twelfth of which, fixed at the next lowest

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1 dollar, constitutes the monthly rate payable on the first
2 business day of the first month beginning after the last day
3 of the month for which the annuity or disability benefit has
4 accrued.

5 ``§ 8464. Accrual and termination of annuities

6 `` (a)(1) Except as otherwise provided in this subchapter,
7 the annuity of a participant under subchapter II of this
8 chapter commences to accrue on the first day of the first
9 month beginning after--

10 `` (A) the date the participant separates from
11 employment by the Government entitled to an immediate
12 annuity under section 8411 of this title, or

13 `` (B) in the case a participant who is entitled to a
14 deferred annuity under section 8412 of this title, the
15 date elected by the participant under section 8412(a) of
16 this title or the date the participant becomes 62 years
17 of age, whichever is earlier,

18 as the case may be.

19 `` (2) The annuity of a former participant under this
20 chapter terminates on the date of death or other terminating
21 event provided by law.

22 `` (b)(1)(A) Except as provided in subparagraph (B) of
23 this paragraph, the survivor annuity of an individual
24 entitled to a survivor annuity under this chapter commences
25 to accrue on the first day of the first month beginning after

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1 the date of death of the deceased participant or former
2 participant on whose death such annuity is based.

3 “(B) The survivor annuity of a surviving spouse entitled
4 to a survivor annuity under section 8431(b) of this title and
5 each survivor annuity computed under section
6 8434(b)(2)(A)(iii) of this title for a former spouse
7 commences to accrue on the first date that the deceased
8 participant on whose death such annuity is based could have
9 retired entitled to an immediate annuity under section 8411
10 of this title (other than subsection (f) of such section) if
11 the deceased participant had continued to live and had
12 continued to be a participant until such date.

13 “(2) The survivor annuity payable to a surviving spouse
14 or an eligible former spouse of a deceased participant or
15 deceased former participant under this chapter terminates on
16 the last day of the last month ending before the surviving
17 spouse or former spouse dies or, if the surviving spouse or
18 former spouse is less than 55 years of age, remarries.

19 “§ 8465. Waiver, allotment, and assignment of benefits

20 “(a) An individual entitled to receive payment of
21 benefits under subchapter II of this chapter may decline to
22 accept all or any part of the amount of the benefits by a
23 waiver signed and filed with the Office. The waiver may be
24 revoked in writing at any time. Payment of the benefits
25 waived may not be made for the period during which the waiver

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1 is in effect.

2 “(b) An individual entitled to receive payment of
3 benefits under subchapter II of this chapter may make
4 allotments or assignments of amounts from the benefits for
5 such purposes as the Office considers appropriate.

6 “§ 8466. Application for benefits

7 “(a) No payment of benefits based on the service of a
8 former participant shall be made under subchapter II of this
9 chapter unless an application for payment of the benefits is
10 received by the Office before the one hundred and fifteenth
11 anniversary of the former participant's birth.

12 “(b) Notwithstanding subsection (a) of this section,
13 after the death of a participant or former participant, a
14 benefit based on the participant's or former participant's
15 service shall not be paid under subchapter II of this chapter
16 unless an application therefor is received by the Office
17 within 30 years after the death or other event which
18 establishes the entitlement to the benefit.

19 “§ 8467. Court orders

20 “(a) Payments under this chapter which would otherwise
21 be made to a participant or former participant based upon the
22 service of the participant or former participant shall be
23 paid (in whole or in part) by the Office or the Board, as the
24 case may be, to another person if and to the extent that the
25 terms of any court decree of divorce, annulment, or legal

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1 separation, or the terms of any court order or court-approved
2 property settlement agreement incident to any court decree of
3 divorce, annulment, or legal separation expressly provide.

4 Any payment under this paragraph to a person bars recovery by
5 any other person.

6 “(b) Subsection (a) of this section shall apply only to
7 payments made by the Office or the Board under this chapter
8 after the date the Office or the Board, as the case may be,
9 receives written notice of such decree, order, or agreement,
10 and such additional information and documentation as the
11 Office or the Board may require.

12 “§ 8468. Annuities and pay on reemployment

13 “(a) If a former participant receiving an annuity under
14 this chapter becomes employed in an appointive or elective
15 position in the Government, payment of the annuity terminates
16 effective on the date of the employment and the former
17 participant's service on and after the date the former
18 participant becomes so employed is covered by this chapter.
19 Upon termination of the employment, the rights of the former
20 participant under this chapter shall be redetermined. If the
21 former participant dies while still so employed, a survivor
22 annuity payable with respect to the deceased former
23 participant shall be redetermined as if the employment had
24 otherwise terminated on the date of death.

25 “(b) The amount of an annuity resulting from a

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1 redetermination of rights under this chapter pursuant to
2 subsection (a) of this section shall not be less than the
3 amount of the terminated annuity plus any increases under
4 section 8462 of this title occurring after the termination of
5 the annuity and before the commencement of the redetermined
6 annuity.

7 ``SUBCHAPTER VII--TRANSITION PROVISIONS

8 ``S 8471. Treatment of certain individuals subject to the
9 Civil Service Retirement and Disability System

10 ``(a)(1)(A) Any individual who is subject to subchapter
11 III of chapter 83 of this title as an employee (as defined in
12 section 8331(1) of this title) or a Member (as defined in
13 section 8331(2) of this title), whose service is not
14 employment for the purposes of title II of the Social
15 Security Act and chapter 21 of the Internal Revenue Code of
16 1954, and who is not required by section 8402 of this title
17 to be a participant may elect to commence participation in
18 the System.

19 ``(B) An election authorized by subparagraph (A) of this
20 paragraph shall be made in writing pursuant to such
21 regulations as the Office may prescribe and may be made not
22 later than January 1, 1988, or, in the case of an individual
23 who becomes an employee or Member after a break in service
24 for a period that includes January 1, 1987, not later than 1
25 year after the individual resumes service.

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1 “(2) Any individual who makes the election authorized by
2 paragraph (1) of this subsection shall retain accrued credit
3 for entitlement to benefits under subchapter III of chapter
4 83 of title 5, United States Code, for service performed
5 while subject to such subchapter.

6 “(3) An individual referred to in paragraph (1) of this
7 subsection who becomes an employee or Member after a break in
8 service for a period that includes January 1, 1987, may make
9 deposits under section 8334 of this title for service
10 performed before such date while subject to subchapter III of
11 chapter 83 of this title.

12 “(b) Any individual who--

13 “(1) has an unrefunded lump-sum credit in the Fund
14 under subchapter III of chapter 83 of this title,

15 “(2) is required by section 8402 of this title to be
16 a participant, and

17 “(3) is not a participant referred to in section
18 8473(a) of this title,
19 shall retain accrued credit for entitlement to benefits under
20 such subchapter for service performed while subject to such
21 subchapter.

22 “(c) Any individual who--

23 “(1) has received a refund of a lump-sum credit in
24 the Fund under subchapter III of chapter 83 of this
25 title,

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1 “(2) is required by section 8402 of this title to be
2 a participant, and

3 “(3) is not a participant referred to in section
4 8473(a) of this title,

5 may make deposits under section 8334 of this title for
6 service performed before January 1, 1987, while subject to
7 subchapter III of chapter 83 of this title and shall, upon
8 making such deposits, be entitled to credit under such
9 subchapter for service covered by the deposits.

10 “§ 8472. Special rules for participants retaining
11 entitlement in the Civil Service Retirement and
12 Disability System

13 “(a) Service that is creditable under subchapter III of
14 chapter 83 of this title in the case of an individual who
15 retains entitlement in the Civil Service Retirement and
16 Disability System under section 8471(a) or 8471(b) of this
17 title shall be credited as service under this chapter only
18 for the purposes of determining eligibility to retire
19 entitled to an immediate annuity under section 8411 of this
20 title and eligibility for disability benefits under
21 subchapter V of this chapter.

22 “(b) Service performed as a participant in the System by
23 an individual referred to in subsection (a) of this section
24 shall be credited under subchapter III of chapter 83 of this
25 title only for the purpose of determining eligibility to

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1 retire entitled to an immediate annuity under section 8335 or
2 8336 of this title.

3 “(c)(1) The rates of basic pay in effect for an
4 individual referred to in subsection (a) of this section on
5 and after the date the individual begins to participate in
6 the System shall be taken into account in computing the
7 individual's average pay (as defined in section 8331(4) of
8 this title) for the purposes of subchapter III of chapter 83
9 of this title.

10 “(2) The rates of basic pay in effect for an individual
11 referred to in subsection (a) of this section before the date
12 the individual begins to participate in the System shall be
13 taken into account in computing the individual's average pay
14 for the purposes of this chapter.

15 “§ 8473. Participants hired during temporary adjustment
16 period

17 “(a) If a participant first commenced service as an
18 employee or Member after December 31, 1983, and before the
19 effective date of the Civil Service Pension Reform Act of
20 1985, and the service is employment for the purposes of title
21 II of the Social Security Act and chapter 21 of the Internal
22 Revenue Code of 1954, such service shall be credited as
23 service for the purposes of this chapter and shall be
24 considered years of participation in the System for the
25 purposes of section 8422 (b) (1) of this title.

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1 “(b)(1) The amount computed under paragraph (2) of this
2 subsection shall be transferred from the Fund to the Thrift
3 Savings Fund in the case of a participant referred to in
4 subsection (a) of this section. The amount transferred shall
5 be credited to an account established for the individual
6 pursuant to section 8428(a) of this title.

7 “(2)(A) The amount transferred from the Fund in the case
8 of a participant pursuant to paragraph (1) of this subsection
9 shall be equal to the sum of--

10 “(1) two times the total amount deducted and
11 withheld from the basic pay of the participant pursuant
12 to section 204(a) of the Federal Employee's Retirement
13 Contribution Temporary Adjustment Act of 1983 (97 Stat.
14 1107; 5 U.S.C. 8331 note); and

15 “(11) interest on the amount referred to in clause
16 (1) of this subparagraph computed at the annual rate
17 determined under the second sentence of this subparagraph
18 and compounded annually, as if a fraction of such amount
19 (determined as provided in subparagraph (B) of this
20 paragraph) had been deposited to the credit of the Fund
21 at the end of each month for which amounts were deducted
22 and withheld from the basic pay of the participant as
23 described in clause (1) of this subparagraph.

24 The annual rate referred to in clause (11) for an amount
25 transferred from the Fund in any calendar year shall be equal

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1 to the interest rate determined for such calendar year under
2 section 8334(e) of this title.

3 "(B) In the case of any participant to whom paragraph
4 (1) of this subsection applies--

5 "(1) the numerator of the fraction referred to in
6 subparagraph (A) (1) of this paragraph is one; and

7 "(1) the denominator of the fraction is the number
8 of months for which amounts were deducted and withheld
9 from the basic pay of the participant as described in
10 subparagraph (A) (1) of this paragraph.

11 "(3) For the purposes of section 8422 of this title--

12 "(A) one-half of the amount computed in the case of
13 a participant referred to in subsection (a) of this
14 section pursuant to paragraph (2) of this subsection
15 shall be treated as a contribution made under section
16 8421 (a) of this title; and

17 "(B) one-half of such amount shall be treated as a
18 contribution made by the employing agency of the
19 participant pursuant to section 8421 (b) of this title.

20 "(4) All amounts transferred from the Fund pursuant to
21 paragraph (1) of this subsection shall be transferred in the
22 form of interest-bearing securities of the United States.

23 "§ 8474. Reemployed annuitants under a Government retirement
24 system.

25 "(a) For the purposes of this section--

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1 “(1) the term ‘annuitant’--

2 “(A) in the case of the Civil Service Retirement
3 and Disability System, shall have the same meaning
4 provided in section 8331(9) of this title;

5 “(B) in the case of the Foreign Service
6 Retirement and Disability System, shall have the same
7 meaning provided in section 804(1) of the Foreign
8 Service Act of 1980 (22 U.S.C. 4044(1)), except that
9 such term does not include a survivor; and

10 “(C) in the case of the Central Intelligence
11 Agency Retirement and Disability System, means--

12 “(1) any participant who is referred to in
13 section 203 of the Central Intelligence Agency
14 Retirement Act of 1964 for Certain Employees, and

15 “(11) any individual who formerly was such a
16 participant,

17 entitled to an annuity from the Central Intelligence
18 Agency Retirement and Disability Fund;

19 “(2) the term ‘Government retirement system’ means--

20 “(A) the Civil Service Retirement and Disability
21 System under subchapter III of chapter 83 of this
22 title;

23 “(B) the Foreign Service Retirement and
24 Disability System under chapter 8 of the Foreign
25 Service Act of 1980 (22 U.S.C. 4041 et seq.); and

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1 “(C) the Central Intelligence Agency Retirement
2 and Disability System under the Central Intelligence
3 Agency Retirement Act of 1964 for Certain Employees
4 (50 U.S.C. 403 note); and

5 “(3) the term ‘reemployed annuitant’ means an annuitant
6 who becomes employed by the Government after the
7 effective date of the Civil Service Pension Reform Act of
8 1985 and is required by section 8402 of this title to be
9 a participant.

10 “(b) A reemployed annuitant shall retain entitlement in
11 the Government retirement system under which the annuitant is
12 receiving an annuity.

13 “(c)(1) Service that is creditable under the Government
14 retirement system of a reemployed annuitant shall be credited
15 under this chapter only for the purpose of determining
16 eligibility to retire entitled to an annuity under section
17 8411 of this title.

18 “(2) Service performed as a reemployed annuitant shall
19 not be creditable service for the purposes of the Government
20 retirement system of the reemployed annuitant.

21 “(d)(1) The rates of basic pay in effect for a
22 reemployed annuitant on and after the date the annuitant
23 begins to participate in the System shall be taken into
24 account in computing the annuitant’s average pay for the
25 purposes of the Government retirement system under which the

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1 annuitant was receiving an annuity when the reemployment
2 commenced.

3 `` (2) The rates of basic pay in effect for a reemployed
4 annuitant before the date the annuitant begins to participate
5 in the System shall be taken into account in computing the
6 annuitant's average pay for the purposes of this chapter.

7 `` (e) Deductions may not be withheld from the pay of a
8 reemployed annuitant for the purposes of the reemployed
9 annuitant's Government retirement system while the reemployed
10 annuitant is a participant in the System.

11 `` § 8475. Exemption from certain offset provisions of the
12 Social Security Act

13 `` Sections 202(b)(4), 202(c)(2), 202(e)(7), 202(f)(2),
14 202(g)(4), and 215(a)(7) of the Social Security Act shall not
15 apply in the case of a person who is a participant referred
16 to in section 8471 of this title or a participant under
17 regulations prescribed by the President pursuant to section
18 8477 of this title.

19 `` § 8476. Regulations

20 `` The Office of Personnel Management may prescribe
21 regulations to carry out this subchapter (other than section
22 8477 of this title).

23 `` SUBCHAPTER VIII--CIVIL SERVICE THRIFT INVESTMENT MANAGEMENT
24 SYSTEM

25 `` § 8491. Civil Service Thrift Investment Board

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1 “(a)(1) There is established in the executive branch of
2 the Federal Government a Civil Service Thrift Investment
3 Board.

4 “(2) The Board shall be composed of--

5 “(A) the Chairman of the Federal Reserve Board;

6 “(B) the Secretary of the Treasury;

7 “(C) the Director; and

8 “(D) two representatives of Federal employee
9 organizations appointed by the President.

10 “(3) The Chairman of the Federal Reserve Board shall be
11 the Chairman of the Board.

12 “(4) The term of office of a member of the Board
13 appointed under paragraph (2)(D) of this subsection shall
14 terminate on the termination date of the term of office of
15 the President who appointed the member.

16 “(b) In addition to performing such functions, duties,
17 and responsibilities as are required under subchapter III of
18 this chapter, the Board shall--

19 “(1) establish policy and prescribe regulations for
20 the investment and management of the Thrift Savings Fund
21 and for the administration of subchapter III of this
22 title;

23 “(2) review the performance of investments made for
24 the Thrift Savings Fund;

25 “(3) without regard to civil service and

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1 classification laws, fix the rate of pay of the Executive
2 Director;

3 “(4) supervise the Executive Director; and
4 “(5) review and approve the budget of the Board.

5 “(c)(1) The Board may--

6 “(A) adopt, alter, and use a seal;
7 “(B) adopt, amend, and repeal regulations to carry
8 out its functions;
9 “(C) upon the concurring votes of four members--

10 “(i) disapprove any action of the Executive
11 Director;

12 “(ii) except as provided in paragraph (2) of
13 this subsection, direct the Executive Director to
14 take such action as the Board considers appropriate
15 to carry out the provisions of this subchapter,
16 subchapter III of this chapter, and the policies of
17 the Board; and

18 “(iii) remove the Executive Director from office
19 for good cause shown; and

20 “(D) take such other action as may be necessary to
21 carry out the functions of the Board.

22 “(2) The Board may not direct the Executive Director or
23 any contractor under section 8427(f) of this title to invest
24 or to cause to be invested any sums in the Thrift Savings
25 Fund in a specific asset.

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1 ``S 8492. Civil Service Thrift Investment Advisory Committee
2 `` (a)(1) The Board shall establish a Civil Service Thrift
3 Investment Advisory Committee (hereinafter in this subchapter
4 referred to as the ``Advisory Committee``).

5 `` (2)(A) The Advisory Committee shall be composed of 6
6 members appointed as provided in subparagraph (B) of this
7 paragraph.

8 `` (B) The members of the Advisory Committee shall be
9 appointed by action agreed to by a majority of the members
10 the Board. Three of the members of the Advisory Committee
11 shall be appointed from among investment asset managers not
12 employed by the Federal Government and three of the members
13 of the Advisory Committee shall be appointed from among
14 administrators of thrift savings plans established for
15 employees of private sector enterprises.

16 `` (3) The Board shall prescribe the terms and conditions
17 of service of the members of the Advisory Committee.

18 `` (b) The Advisory Committee shall--

19 `` (1) advise the Board and the Executive Director on
20 matters relating to--

21 `` (A) investment policy for the Thrift Savings
22 Fund;

23 `` (B) selection of the types of investment funds
24 which are appropriate for investment of sums in the
25 Thrift Savings Fund;

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1 “(C) selection of investment managers for the
2 purpose of contracting for the administration of
3 investment funds under section 8427(f) of this title;
4 and

5 “(D) the performance of the duties of the Board
6 and the Executive Director under this subchapter and
7 subchapter III of this chapter; and

8 “(2) review the performance of investments made for
9 the Thrift Savings Fund.

10 “§ 8493. Executive Director

11 “(a)(1) The Board shall appoint an Executive Director by
12 action agreed to by a majority of the members of the Board.
13 The Executive Director shall have substantial experience,
14 training, or expertise in the management of financial
15 investments.

16 “(2) The Board shall prescribe the terms and conditions
17 of service of the Executive Director.

18 “(b) The Executive Director shall--

19 “(1) carry out the policies established by the
20 Board;

21 “(2) invest and manage the Thrift Savings Fund in
22 accordance with the investment and other policies
23 established by the Board;

24 “(3) pay annuities and make other authorized
25 distributions from the Thrift Savings Fund under this

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1 chapter; and

2 “(4) administer the provisions of this subchapter
3 and subchapter III of this chapter and the regulations
4 prescribed by the Board.

5 “(c) The Executive Director, may--

6 “(1) without regard to civil service and
7 classification laws, appoint, employ, and fix the
8 compensation of such personnel as may be necessary to
9 carry out the provisions of this subchapter and
10 subchapter III of this chapter;

11 “(2) enter into such contracts or other
12 arrangements, and make such modifications thereof, as may
13 be necessary to carry out the provisions of this
14 subchapter and section 8427 of this title and the
15 policies of the Board;

16 “(3) obtain from any Federal agency, including any
17 independent establishment or instrumentality of the
18 United States, advice, information, estimates,
19 statistics, and such other assistance as the Executive
20 Director considers necessary to carry out the provisions
21 of this subchapter and subchapter III of this chapter and
22 the policies of the Board;

23 “(4) make such payments out of sums in the Thrift
24 Savings Fund as the Executive Director determines are
25 necessary to carry out the provisions of this subchapter

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1 and subchapter III of this chapter and the policies of
2 the Board;

3 "(5) pay the compensation, per diem, and travel
4 expenses of personnel from the Thrift Savings Fund;

5 "(6) accept and utilize the services of individuals
6 employed intermittently in the Government service and
7 reimburse such individuals for travel expenses, as
8 authorized by section 5703 of this title, including per
9 diem as authorized by section 5702 of this title;

10 "(7) except as otherwise expressly prohibited by law
11 or the policies of the Board, delegate any of the
12 Executive Director's functions to such officers and
13 employees under the Board as the Executive Director may
14 designate and authorize such successive redelegations of
15 such functions to such officers and employees under the
16 Board as the Executive Director may consider to be
17 necessary or appropriate; and

18 "(8) take such other actions as is appropriate to
19 carry out the functions of the Executive Director.

20 "§ 8494. Investment policy

21 "The Board shall develop investment policies under
22 section 8491(b)(1) of this title which provide for--

23 "(1) high investment yields;

24 "(2) prudent investments suitable for accumulating
25 funds for payment of retirement income;

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1 “(3) low administrative costs; and

2 “(4) investments likely to receive broad acceptance

3 by participants and the public.

4 “§ 8495. Administrative provisions

5 “(a) The Board shall meet--

6 “(1) not less than once during each fiscal year; and

7 “(2) at additional times at the call of the

8 Chairman.

9 “(b)(1) Except as provided in section 8493(a)(3) of this

10 title, the Board shall perform the functions and exercise the

11 powers of the Board on a majority vote of a quorum of the

12 Board.

13 “(2) A vacancy on the Board shall not impair the

14 authority of a quorum of the Board to perform the functions

15 and exercise the powers of the Board.

16 “(c) Four members of the Board shall constitute a quorum

17 for the transaction of business.

18 “(d)(1) Each member of the Board who is not a Federal

19 employee and each member of the Advisory Committee shall be

20 compensated at the daily rate of basic pay payable for grade

21 GS-18 under the General Schedule for each day or part thereof

22 during which such member is engaged in performing a function

23 of the Board or Advisory Committee, as the case may be.

24 “(2) Each member of the Board who is not a Federal

25 employee and each member of the Advisory Committee shall be

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1 paid travel, per diem, and other necessary expenses under
2 subchapter I of chapter 57 of this title while traveling away
3 from his home or regular place of business in the performance
4 of the duties of the Commission or Advisory Board, as the
5 case may be.

6 "(e) The accrued annual leave of any employee who is a
7 member of the Board shall not be charged for any time used in
8 performing service for the Board during any work period.

9 "(f) The Federal Advisory Committee Act (86 Stat. 776; 5
10 U.S.C. App.) shall not apply to the Advisory Committee.

11 "§ 8496. Requirements relating to investment funds contracts

12 "(a) The Board shall include in each contract awarded
13 under section 8427(f) of this title--

14 "(1) a provision requiring the contractor to
15 diversify the investments made under the contract;

16 "(2) a provision requiring the contractor to make,
17 consistent with prudent criteria for financial
18 investment, such investments as, in the judgment of such
19 contractor, will maximize the return on the investments;

20 "(3) a provision specifying the fees payable under
21 the contract to the contractor; and

22 "(4) such additional terms and conditions as the
23 Board considers appropriate to protect the interests of
24 the United States and participants.

25 "(b) The amount payable to a contractor under a contract

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1 awarded under section 8427(b) of this title may not exceed
2 the amount equal to one-quarter of 1 percent of the sums in
3 the Thrift Savings Fund invested by the contractor under the
4 contract.

5 "(c) A contract awarded under section 8427(b) of this
6 title shall terminate 1 year after the first day the contract
7 is in effect.

8 "§ 8497. Fiduciary responsibilities; liability and penalty

9 "(a) For the purposes of this section--

10 "(1) the term 'fiduciary' means--

11 "(A) with respect to the Thrift Savings Fund,
12 each member of the Board; and

13 "(B) with respect to sums from the Thrift
14 Savings Fund invested and managed by a private
15 business concern under a contract entered into under
16 section 8427(b) of this title--

17 "(i) such private business concern; and

18 "(ii) each owner, director, officer, and
19 employee of such private business concern;

20 "(2) the term 'party in interest' includes--

21 "(A) any fiduciary;

22 "(B) any counsel to a fiduciary;

23 "(C) any person providing services to the Board;

24 "(D) a labor organization;

25 "(E) a spouse, ancestor, lineal descendant, or

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1 spouse of a lineal descendant of a person described
2 in subclause (A), (B), or (C) of this clause; and

3 "(F) a corporation, partnership, or trust or
4 estate of which, or in which, 50 percent or more of--

5 "(i) the combined voting power of all
6 classes of stock entitled to vote or the total
7 value of shares of all classes of stock of such
8 corporation;

9 "(ii) the capital interest or profits
10 interest of such partnership; or

11 "(iii) the beneficial interest of such trust
12 or estate,

13 is owned directly or indirectly, or held by a person
14 described in subclause (A), (B), (C), or (E) of this
15 clause; and

16 "(3) the term 'person' means an individual,
17 partnership, joint venture, corporation, mutual company,
18 joint-stock company, trust, estate, unincorporated
19 organization, association, or labor organization.

20 "(b)(1) A fiduciary shall discharge his responsibilities
21 with respect to the Thrift Savings Fund or applicable portion
22 thereof solely in the interest of the participants and
23 beneficiaries and--

24 "(A) for the exclusive purpose of--

25 "(i) providing benefits to participants and

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1 their beneficiaries; and

2 “(11) defraying reasonable expenses of
3 administering the Thrift Savings Fund or applicable
4 portions thereof;

5 “(B) with the care, skill, prudence, and diligence
6 under the circumstances then prevailing that a prudent
7 man acting in a like capacity and familiar with such
8 matters would use in the conduct of an enterprise of a
9 like character and with like objectives; and

10 “(C) to the extent permitted by section 8427 of this
11 title, by diversifying the investments of the Thrift
12 Savings Fund or applicable portions thereof so as to
13 minimize the risk of large losses, unless under the
14 circumstances it is clearly prudent not to do so.

15 “(2) No fiduciary may maintain the indicia of ownership
16 of any assets of the Thrift Savings Fund outside the
17 jurisdiction of the district courts of the United States.

18 “(c)(1) A fiduciary shall not cause the Thrift Savings
19 Fund or any portion thereof to engage in a transaction, if
20 the fiduciary knows or should know that such transaction
21 constitutes a direct or indirect--

22 “(A) sale or exchange, or leasing, of any property
23 between the Thrift Savings Fund and a party in interest;

24 “(B) lending of money or other extension of credit
25 between the Thrift Savings Fund and a party in interest;

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1 “(C) furnishing of goods, services, or facilities
2 between the Thrift Savings Fund and a party in interest;
3 or

4 “(D) transfer to, or use by or for the benefit of, a
5 party in interest, of any assets of the Thrift Savings
6 Fund.

7 “(2) A fiduciary shall not--

8 “(A) deal with any assets of the Thrift Savings Fund
9 in his own interest or for his own account;

10 “(B) act, in his individual or any other capacity,
11 in any transaction involving the Thrift Savings Fund for
12 the benefit of a party (or represent a party) whose
13 interests are adverse to the interests of the Thrift
14 Savings Fund or the interests of its participants or
15 beneficiaries; or

16 “(C) receive any consideration for his own personal
17 account from any party dealing with sums credited to the
18 Thrift Savings Fund in connection with a transaction
19 involving assets of the Thrift Savings Fund, except fees
20 which the fiduciary is entitled to receive as provided in
21 a contract awarded under section 8427(b) of this title.

22 “(3) For the purposes of this subsection, a transfer of
23 real or personal property by a party in interest to a plan
24 shall be treated as a sale or exchange if the property is
25 subject to a mortgage or similar lien which the plan assumes

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1 or if it is subject to a mortgage or similar lien which a
2 party-in-interest placed on the property within the 10-year
3 period ending on the date of the transfer.

4 "(d)(1)(A) Any fiduciary that breaches the
5 responsibilities, duties, and obligations set out in
6 subsection (b) of this section or violates subsection (c) of
7 this section shall be liable to make good to the Thrift
8 Savings Fund any losses to such fund resulting from each such
9 breach or violation and to restore to such fund any profits
10 made by the fiduciary through use of assets of such fund by
11 the fiduciary, and shall be subject to such other equitable
12 or remedial relief as a court considers appropriate. A
13 fiduciary may be removed for a breach referred to in the
14 preceding sentence.

15 "(B) The Attorney General of the United States may
16 assess a civil penalty against a party in interest engaging
17 in a transaction prohibited by subsection (c) of this
18 section. The amount of such penalty may not exceed 5 percent
19 of the amount involved (as defined in section 4975(f)(4) of
20 the Internal Revenue Code of 1954); except that, if the
21 transaction is not corrected (in such manner as the Attorney
22 General shall prescribe by regulation consistent with section
23 4975(f)(5) of the Internal Revenue Code of 1954) within 90
24 days after the date the Attorney General transmits notice to
25 the party in interest (or such longer period as the Attorney

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1 General may permit), such penalty may be in an amount not
2 more than 100 percent of the amount involved.

3 "(C) A fiduciary shall not be liable under subparagraph
4 (A) of this paragraph with respect to a breach of fiduciary
5 duty under subsection (b) of this section committed before
6 becoming a fiduciary or after ceasing to be a fiduciary.

7 "(2) A civil action may be brought in the district
8 courts of the United States--

9 "(A) by the Attorney General of the United States--

10 "(i) to determine and enforce a liability under
11 paragraph (1)(A) of this subsection; or

12 "(ii) to collect any civil penalty under
13 paragraph (1)(B) of this subsection; or

14 "(B) by the Attorney General of the United States,
15 any participant, former participant, other beneficiary,
16 or fiduciary--

17 "(i) to enjoin any act or practice which
18 violates any provision of subsection (b) or (c) of
19 this section; or

20 "(ii) to obtain any other appropriate equitable
21 relief to redress a violation of any such provision.

22 "(3) An action may not be commenced under paragraph (2)
23 of this subsection with respect to a fiduciary's breach of
24 any responsibility, duty, or obligation under subsection (b)
25 of this section or a violation of subsection (c) of this

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1 section after the earlier of--

2 “(A) 6 years after (i) the date of the last action
3 which constituted a part of the breach or violation, or
4 (ii) in the case of an omission, the latest date on which
5 the fiduciary could have cured the breach or violation;
6 or

7 “(B) 3 years after the earliest date on which the
8 plaintiff had actual knowledge of the breach or
9 violation; except that, in the case of fraud or
10 concealment, such action may be commenced not later than
11 6 years after the date of discovery of such breach or
12 violation.”.

13 (b) The table of chapters at the beginning of part III of
14 such title is amended by inserting after the item relating to
15 chapter 83 the following new item:

“84. Civil Service Pension System..... 8401.”.

16 TITLE II--AMENDMENTS RELATING TO SOCIAL SECURITY

17 AMENDMENTS TO THE SOCIAL SECURITY ACT

18 Sec. 201. Section 210(a)(5) of the Social Security Act is
19 amended--

20 (1) by striking out “or” at the end of subparagraph

21 (F);

22 (2) by striking out the semicolon at the end of
23 subparagraph (G) and inserting in lieu thereof “, or”;

24 and

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1 (3) by adding at the end thereof the following new
2 subparagraph:

3 `` (H) service performed by an individual after
4 such individual has commenced participation in the
5 Civil Service Pension System pursuant to section 8471
6 of title 5, United States Code; ``.

7 AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

8 Sec. 202. Section 3121(b)(5) of the Internal Revenue Code
9 of 1954 is amended--

10 (1) by striking out ``or`` at the end of subparagraph
11 (F);

12 (2) by striking out the semicolon at the end of
13 subparagraph (G) and inserting in lieu thereof `` , or ``;
14 and

15 (3) by adding at the end thereof the following new
16 subparagraph:

17 `` (H) service performed by an individual after
18 such individual has commenced participation in the
19 Civil Service Pension System pursuant to section 8471
20 of title 5, United States Code; ``.

21 TITLE III--MISCELLANEOUS AND CONFORMING AMENDMENTS
22 EXTENSION OF FEDERAL EMPLOYEES' RETIREMENT CONTRIBUTION

23 TEMPORARY ADJUSTMENT ACT OF 1983

24 Sec. 301. (a) Sections 202(1), 202(6), 203(a)(4)(A),
25 203(a)(4)(B), 204(a), 206(b)(2)(A)(1), and 206(c)(3) of the

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1 Federal Employees' Retirement Contribution Temporary
2 Adjustment Act of 1983 (97 Stat. 1106; 5 U.S.C. 8331 note)
3 are amended by striking out ``January 1, 1986`` each place it
4 appears and inserting in lieu thereof ``January 1, 1987``.

5 (b) Section 205 of such Act is amended by striking out
6 ``and 1986`` in subsections (b) and (c) and inserting in lieu
7 thereof ``1986, and 1987``.

8 PAY RETENTION FOR CERTAIN DISABLED EMPLOYEES

9 Sec. 302. Section 5363(a) of title 5, United States Code,
10 is amended--

11 (1) by striking out ``or`` at the end of paragraph

12 (2);

13 (2) by redesignating paragraph (3) as paragraph (4);

14 and

15 (3) by inserting before paragraph (4), as
16 redesignated by clause (2), the following new paragraph

17 (3):

18 `` (3) who--

19 `` (A) is removed from a position subject to this
20 subchapter by reason of being disabled (for the
21 purposes of subchapter V of chapter 84 of this
22 title); and

23 `` (B) is placed in another position which is
24 subject to this subchapter and is in a lower grade
25 than the previous position; or``.

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1 MISCELLANEOUS AMENDMENTS TO CHAPTER 83 OF TITLE 5, UNITED
2 STATES CODE

3 Sec. 303. (a) Section 8331(1)(G) of title 5, United
4 States Code, is amended to read as follows:

5 "(G) an individual first employed by the
6 government of the District of Columbia before January
7 1, 1987;".

8 (b) Section 8332 of such title is amended by adding at
9 the end thereof the following new subsection:

10 "(n) Except as provided in section 8472(b) of this
11 title, service performed while a participant in the Civil
12 Service Pension System under chapter 84 of this title is not
13 creditable under this section.".

14 (c)(1) The first sentence of section 8333(b) of such
15 title is amended by inserting "or chapter 84 of this title"
16 after "subject to this subchapter".

17 (2) Section 8333(c) of such title is amended by adding at
18 the end thereof the following new sentence: "The
19 requirements of the first sentence shall apply only with
20 respect to the civilian service performed by a Member while
21 not a participant in the Civil Service Pension System under
22 chapter 84 of this title.".

23 (d) Subsection (a) of section 8334 of such title is
24 amended--

25 (1) In the first sentence of paragraph (1), by

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1 striking out ``The employing`` and inserting in lieu
2 thereof ``Except as provided in paragraph (3) of this
3 subsection, the employing``; and

4 (2) by adding at the end thereof the following new
5 paragraph:

6 `` (3)(A) In the case of an employee or Member who was
7 subject to this subchapter before January 1, 1984, and whose
8 service--

9 `` (1) is employment for the purposes of title II of
10 the Social Security Act and chapter 21 of the Internal
11 Revenue Code of 1954; and

12 `` (ii) is not creditable service for any purpose
13 under chapter 84 of this title,
14 an employing agency shall deduct and withhold from the basic
15 pay of the employee or Member under paragraph (1) of this
16 subsection during any pay period only the amount computed
17 pursuant to subparagraph (B) of this paragraph.

18 `` (B) The amount deducted and withheld from basic pay
19 during any pay period pursuant to subparagraph (A) of this
20 paragraph in the case of an employee or Member referred to in
21 such subparagraph shall be the excess, if any, of--

22 `` (i) the amount that would be deducted and withheld
23 under paragraph (1) of this subsection but for this
24 paragraph, over

25 `` (ii) the amount of the employment taxes deducted

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1 and withheld from the basic pay of the employee or Member
2 for the pay period pursuant section 3101(a) of the
3 Internal Revenue Code of 1954.''.
4

5 (e) The first sentence of section 8334(d) of such title
6 is amended by inserting after ''subchapter'' the following:
7 '', other than an employee or Member who is a participant in
8 the Civil Service Pension System under chapter 84 of this
9 title,''.
10

11 (f) Section 8339 of such title is amended by adding at
12 the end thereof the following new subsection:
13

14 ''(o)(1) Effective on the first day of the month in which
15 an annuitant or a survivor becomes 62 years of age, the
16 annuity or survivor annuity computed under the other
17 subsections of this section shall be reduced by an amount
18 equal to the amount (if any) by which the annuitant's or
19 survivor annuitant's benefit under title II of the Social
20 Security Act exceeds the amount of such benefit to which he
21 would be entitled if the service described in paragraph (2)
22 of this subsection were not taken into account.
23

24 ''(2) The service described in this paragraph is the
25 civilian service that is covered by amounts deducted and
26 withheld as provided in section 8334 (a) (3) of this title
27 and is taken into account for the purpose of computing--
28

29 ''(A) the annuity or survivor annuity; and
30

31 ''(B) benefits under such title of the Social
32

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1 Security Act.''.
2

3 CONFORMING PROVISIONS FOR THE POSTAL SERVICE RETIREMENT
4 SYSTEM

5 Sec. 304. Section 1005(d) of title 39, United States
6 Code, is amended to read as follows:

7 ''(d) Officers and employees of the Postal Service (other
8 than the Governors) shall be covered by chapters 83 and 84 of
9 title 5 according to the provisions of such chapters. The
10 Postal Service shall withhold from pay and shall pay into the
11 Civil Service Retirement and Disability Fund the amounts
12 specified in or determined under such chapter 83. The Postal
13 Service shall pay into the Civil Service Retirement and
14 Disability Fund the amounts specified or determined under
15 subchapters II and V of such chapter 84. The Postal Service
16 shall pay into the Civil Service Thrift Savings Fund the
17 amounts specified in or determined under subchapter III of
18 such chapter 84.''.
19

20 GROUP LIFE INSURANCE FOR CERTAIN PARTICIPANTS IN THE CIVIL
21 SERVICE PENSION SYSTEM

22 Sec. 305. (a) Subsection (a) of section 8707 of such
23 title is amended--

24 (1) by striking out ''(a) During'' and inserting in
25 lieu thereof ''(a)(1) Except as provided in paragraph (2)
of this subsection, during''; and

(2) by adding at the end thereof the following new

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1 paragraph:

2 ``(2) Paragraph (1) of this subsection shall not apply to
3 an employee who is required by section 8402 of this title to
4 be a participant in the Civil Service Pension System.''.
5

6 (b) Subsection (a) of section 8708 of such title is
7 amended--

8 (1) by striking out ``(a) For'' and inserting in lieu
9 thereof ``(a)(1) Except as provided in paragraph (2) of
10 this subsection, for''; and

11 (2) by adding at the end thereof the following new
12 paragraph:

13 ``(2) For each period for which an employee referred to
14 in section 8707(a)(2) of this title is insured under a policy
15 of insurance referred to in paragraph (1) of this subsection,
16 a sum equal to one and one-half of the amount which, but for
17 such section 8707(a)(2), would be withheld from the pay of
18 the employee under section 8707(a)(1) of this title shall be
19 contributed from the appropriation or fund which is used to
20 pay the employee.''.
21

22 HEALTH BENEFIT PLAN ELIGIBILITY FOR FORMER SPOUSES

23 Sec. 306. (a) Section 8901(10) of title 5, United States
24 Code, is amended--

25 (1) in subparagraph (C)(i)--

(A) by inserting ``or 8457'' after ``8345(j)'';

and

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1 (B) by inserting ``or 8434`` after ``8341(h)``;

2 and

3 (2) in subparagraph (C)(11)--

4 (A) by inserting ``or 8434`` after ``8341(h)``;

5 and

6 (B) by inserting ``or 8457`` after ``8345(j)``.

7 (b) Paragraph (1) of section 8905(c) of such title is

8 amended--

9 (1) in subparagraph (B), by inserting ``or

10 8435(a)(1)``; and

11 (2) in the second sentence--

12 (A) by inserting ``or 8434`` after ``8341(h)``;

13 and

14 (B) by inserting ``or 8457`` after ``8345(j)``.

15 EMPLOYEES OF NONAPPROPRIATED FUND INSTRUMENTALITIES

16 Sec. 307. Section 2105(c) of title 5, United States Code,

17 is amended by inserting `` , chapter 84, `` after ``chapter

18 81`` in clause (2) of the first sentence.

19 TITLE IV--AUTHORIZATION AND EFFECTIVE DATES

20 FIRST YEAR EXPENSES OF THE BOARD

21 Sec. 401. (a) Notwithstanding section 8426(c)(3) of title

22 5, United States Code (as added by section 101 of this Act),

23 the expenses incurred in the administration of the Civil

24 Service Thrift Investment Board established by section

25 8491(a) of such title (as added by section 101 of this Act)

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1 during fiscal years 1986 and 1987 shall be paid from sums
2 appropriated pursuant to subsection (b).

3 (b) There are authorized to be appropriated to the Civil
4 Service Thrift Investment Board, for fiscal years 1986 and
5 1987, such sums as may be necessary to pay the expenses
6 incurred in the administration of the Civil Service Thrift
7 Investment Board during such fiscal year.

8 EFFECTIVE DATES

9 Sec. 402. (a) Except as provided in subsection (b) or
10 (c), this Act and the amendments made by this Act shall take
11 effect January 1, 1987.

12 (b) Subchapter VIII of chapter 84 of title 5, United
13 States Code (relating to the Civil Service Thrift Investment
14 Board), as added by section 101, shall take effect on the
15 date of enactment.

Compared to Current Civil
Service Retirement System

1. DEFINED-BENEFIT PORTION

	Current CSRS	Supplemental plan (6/18/85)
Eligibility	Federal employees who are not covered by social security.	Federal employees who are covered by social security.
Required employee contributions	7% of total pay.	None, except for social security.
Vesting of retirement benefits	5 years service, provided employee does not withdraw his own contributions.	5 years service.
Salary base	Average of High-3 yrs salary. Ignores bonus & overtime.	Average of High-5 yrs. Ignores bonus, overtime, pay cap.
Retirement benefit formula (accrual rate)	1.5% x first 5 yrs. service, 1.75% x next 5 yrs. service, 2.0% x yrs. of svc. over 10; all times salary base.	1.0% times years of service.
Eligibility for retirement		
1. Unreduced	Age 55 & 30 years service, Age 60 & 20 years service, Age 62 & 5 years service.	Age 62 & 5 years service.
2. Reduced	No provisions.	Age 55 & 10 years service.
3. Involuntary	Age 50 & 20 yrs. service. Any age & 25 yrs. service.	Age 50 & 20 yrs. service. Any age & 25 yrs. service.
4. Deferred vested	At least 5 yrs. service, and does not withdraw employee contributions.	At least 5 yrs. service when employment terminates.
Amount of retirement benefits		
1. Unreduced	Based on accrual rate, without reduction.	Based on accrual rate, without reduction.
2. Reduced	No provisions.	(A) Age 55 & 30 yrs. service, benefit reduced 2% for each year under age 62. (B) Age 55 & 10 yrs. service, benefit reduced 5% for each year under age 62.
3. Involuntary	Reduced 2% for each year under age 55.	Reduced 2% for each year under age 62.
4. Deferred vested	Accrued benefit payable at age 62.	Full accrued benefit payable at age 62. Reduced benefit can be elected when former employee attains age 55 with the service needed for early retirement (10 years or 30 years), with reductions at 5% or 2% per year under 62.
Refunds	Option to withdraw at separation sums contributed with benefits forfeited.	No contributions, thus no refund.
Cost-of-living adjustments (COLAs)	Annually, 100% of rate of inflation as measured by increase in Consumer Price Index (CPI).	50% of CPI increase, but not less than CPI increase minus 2 percentage points.
Optional forms of benefits		
	Joint-&-survivor annuity. (55% rate, with "pop-up"-- at death of contingent annuitant, reduction in benefits is discontinued.)	1. Joint-&-survivor annuity. (50% rate, with "pop-up"-- at death of contingent annuitant, reduction in benefits is discontinued.)
	Subsidized (less than full actuarial reduction).	2. Social security leveling option (ages 55-62).
Suspension of benefits during re-employment	Applies only to involuntary retirement cases.	Applies to all retirements.

	Current CSRS	Supplemental plan (6/18/85)																																			
Employee contributions, paid by salary reduction, matched by employer	N/A	Up to 5% of pay.																																			
Employer contributions	N/A	\$1 for each employee \$1.																																			
Additional employee voluntary contributions, paid by salary reduction, not matched	N/A	Up to 5% of pay.																																			
Vesting	N/A	Employee immediately vested for own contributions, employer contributions vested at 20% after 1 year of service, increasing to 100% after 5th year, with any investment gains/losses.																																			
Investment of employee accounts	N/A	<p>Employee may elect investment of his account in:</p> <p>(A) Government securities.</p> <p>(B) Fixed-income securities, using insurance company Guaranteed Investment Contracts (GICs) or other private-sector assets.</p> <p>(C) Equities, using index fund invested in proportion to a diversified common stock portfolio such as Standard & Poor's 500 Stock Index.</p> <p>Phase-in of private-sector investment option after thrift plan contributions begin:</p> <table> <tr> <th rowspan="2">Contributions in cal. year</th><th colspan="2">Required to be in gov't securities</th></tr> <tr> <th>Employee</th><th>Employer</th></tr> <tr> <td>1986</td><td>N/A</td><td>N/A</td></tr> <tr> <td>1987</td><td>100</td><td>100</td></tr> <tr> <td>1988</td><td>80</td><td>100</td></tr> <tr> <td>1989</td><td>60</td><td>100</td></tr> <tr> <td>1990</td><td>40</td><td>100</td></tr> <tr> <td>1991</td><td>20</td><td>100</td></tr> <tr> <td>1992</td><td>0</td><td>80</td></tr> <tr> <td>1993</td><td>0</td><td>60</td></tr> <tr> <td>1994</td><td>0</td><td>40</td></tr> <tr> <td>1995</td><td>0</td><td>20</td></tr> </table>	Contributions in cal. year	Required to be in gov't securities		Employee	Employer	1986	N/A	N/A	1987	100	100	1988	80	100	1989	60	100	1990	40	100	1991	20	100	1992	0	80	1993	0	60	1994	0	40	1995	0	20
Contributions in cal. year	Required to be in gov't securities																																				
	Employee	Employer																																			
1986	N/A	N/A																																			
1987	100	100																																			
1988	80	100																																			
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1990	40	100																																			
1991	20	100																																			
1992	0	80																																			
1993	0	60																																			
1994	0	40																																			
1995	0	20																																			
Payout of employee retirement accounts	N/A	<p>Employee may elect payout of account balance as follows:</p> <ol style="list-style-type: none"> 1. As annuity under CSRS. 2. In cash (at retirement age, death or disability). 3. As rollover to IRA (at termination of employment or death). <p>No withdrawal of funds by active employees. Possible loans to employees will be determined by regulations.</p>																																			

J. DISABILITY BENEFITS

	Current CSRS	Supplemental plan (6/18/85)
Administration and eligibility	Provided from CSRS, if employee has 5 years of service for eligibility. Customarily paid after sick leave is used up.	To be provided under separate Long-Term Disability (LTD) plan with third-party administrator. Disability benefits are paid first from unused sick leave, then after no further waiting period from LTD plan, if employee has 18 months of service for LTD eligibility.
Definition of disability	Unable to do own job.	During first year after entitlement to LTD benefits, employee must be unable to do his own job. After first year, employee must be unable to do any federal job for which he is qualified in same commuting area and within 2 grade levels. During disability, total income from work may not exceed 60% of pay level for former job, and employee may be given physical exams.
Disability benefit amounts	Annuity earned at onset, or if greater, the lesser of: (a) 40% of salary base, or (b) Annuity based on service projected to age 60 at the same salary base.	60 percent of salary, offset after 5-month waiting period by 100% of social security primary benefit, payable to age 62. If social security definition of disability is not met, benefits are reduced one year after entitlement to LTD benefits, to 40 percent of salary, payable to age 55. HI-5 used to figure retirement benefits at age 62 increases to reflect current pay level for employee's former job.
Retirement benefits after disability	Disability pension continues for life if no recovery before normal retirement age.	During LTD benefit period, employee's service continues to be credited toward defined-benefit formula, high-5 amount goes up to reflect pay level for employee's former job, and employee may participate in defined-contribution part of the plan. After LTD benefit period ends, employee is eligible for retirement benefits based on age and service at that time.

	Current CSRS	Supplemental plan (6/18/85)
Preretirement death benefit, spouse or former spouse.	At death of active employee with 18 months service, surviving spouse gets group life and 55% of the annuity earned at death, or, if larger the lesser of (a) 55% of 40% of salary base, or (b) 55% of annuity earned with service projected to age 60 at same salary base.	Surviving spouse gets: (A) Any social security benefits payable; (B) Group life. All employees to get basic noncontributory amount equal to the basic amount under current law. (This is one times annual pay rounded to next higher \$1,000, plus \$2,000, at ages 45 and over, and is higher for those under age 45.) (C) At death of member who is eligible to retire, lifetime pension equal to 50% of accrued pension, reduced for early retirement and for election of 50% joint-and-survivor; (D) At death of member who is vested but not eligible to retire, lifetime pension (commencing when the employee first would have been eligible to retire) equal to 50% of accrued pension, reduced for early retirement and for election of 50% joint-and-survivor annuity. (E) Thrift plan account.
Preretirement death benefit, children	Unrelated to annuity; annually adjusted dollar amount varied by number of children, and whether or not orphaned.	None from plan; benefits provided by social security.
Optional post-retirement death benefit, spouse or former spouse	55% of earned retirement annuity unless choice rejected; option results in reduction to earned retirement annuity of 2.5% of first \$3600 of annuity and 10% reduction to annuity over \$3600.	Annuity to married retiree is automatically reduced actuarially as in a 50% joint-and-survivor plan to provide a spouse survivor annuity. (Automatic unless rejected.)
Children	Same as for pre-retirement death benefit.	None from plan; benefits provided from social security.

Retirement ages for law enforcement, firefighters, air traffic controllers, Congress, etc.	Law enforcement officers and firefighters may retire at age 50 & 20 years service. Benefit is 2.5% of high-3 times first 20 years of service, plus 2% times service beyond 20 years.	Law enforcement, firefighters, and air traffic controllers may retire at age 55 with 25 years of service. Supplement equal to social security payable between ages 55-62.
	Air traffic controllers may retire after 25 years, or at age 50 & 20 years, with unreduced benefits under the regular formula, but not less than 50% of high-3.	National guard technicians may retire at age 55 with 30 years service, with no supplement payable.
	Other groups have special contributions, benefits.	These classes may retire before age 55, if they have 25 years of service, with reduction of 5% per year below age 55, and with no supplement payable before 55.
		Other groups get the regular benefits of the plan.
Treatment of non-federal employees as federal employees for purposes of retirement	Certain groups are included.	Newly hired employees of the D.C. government are excluded from this program.
Transfers of current employees to new program	N/A	Current employees may elect to join social security and new program. Credit in current program is frozen, except that high-3 pay continues to run. All service counts toward both programs' eligibility for retirement and vesting.
		Employee is given credit for prior federal service toward social security eligibility for survivor and disability coverage, and the social security windfall-benefit reduction is waived.